

Pacific" he now sleeps the sleep of eternity. Peace to his ashes! Friend, colleague, and companion, Hail and farewell! Aloha! Aloha oe!

At this point Mr. RODENBERG resumed the chair.

Mr. CANNON. Mr. Speaker, in youth created a prince of the royal house by the King of the Sandwich Islands; in young manhood elected a Delegate to the House of Representatives, where he served for twenty years, it was a romantic transformation, and one that speaks for the influence of this Republic, and also for the man.

Here in the House we called him "Prince," not because of his former title, but because he was a prince of good fellows, and one of the most democratic members of the House. He also carried his democratic principles back to the old island kingdom, and spread that influence among his people. I have several times visited Hawaii, and I have seen this influence grow and develop, and I know of no representative who had a more loyal and affectionate constituency than had KALANIANA'OLE.

I believe that the Prince of a former kingdom had a considerable part in holding the natives of Hawaii loyal to the jurisdiction of the United States and educating them in the ways of a government of the people by the people. He became a typical American, and as such we mourn his loss to the House. On my last visit to Hawaii I was entertained at the beautiful home of KALANIANA'OLE, and it was a combination of the old and the new hospitality, of native simplicity and American culture, and as I saw the affectionate regard of the Hawaiians, not only for the host, but for his American guests, I felt assured that we had been wise and successful in gathering those beautiful islands and their peoples under the American flag. Peace to the "Prince."

Mr. JOHNSON of South Dakota. Mr. Speaker, when Divine Providence removed from this world Prince KALANIANA'OLE, He took a great and lovable man and one whose place can not be filled. Like all good and great men he made and retained the friendship of others of that type. One of them, former Representative Frank Reavis, of Nebraska, has paid to him a beautiful tribute, a tribute from his heart—not empty words, but an expression of future faith, containing the philosophy of the ages. Each one of us who reads it will be made a better man. He said:

Life is not its own justification. If all we do is just to live, so far as the ultimate scheme of things is concerned, we might as well not have lived at all. The accomplishments of life are the test, and the accomplishments which have an enduring value are those which add something to the sum total of human happiness and, in some measure, aid the race in its struggle onward toward its destiny. Life's justification lies in contribution, not achievement. As between Christ and Croesus, I choose Christ.

Measured by this test, a successful life passed into the shadows when the prince died. Concerned always with the welfare of his gentle people whom he loved with a love that passeth understanding, he labored without tiring that they might obtain every legitimate benefit that legislation could afford. In the several years of my congressional service I recall no Member more zealous for those whom he represented than this democratic prince of the royal blood.

He became a Member of this body actuated by a desire to contribute to the high office and not because of any thought that the office would contribute to him. He consented to serve his people as Delegate because the position granted him an opportunity for such service, and was supremely indifferent to the thought that either in honor or emolument the office would serve him. He was representative of the highest character within the House in that his constant desire was to give something to the country, rather than to take something from it. His position on all Territorial legislation was the product of an earnest desire to do his part toward securing meritorious bills, and was never influenced nor persuaded by consulting the personal consequences of his official acts. In short, he labored always for his country and never, save in the higher and finer sense, for himself.

It had been recounted that the great ambition of his life met its fulfillment in the passage of the Hawaiian rehabilitation bill; and, feeling that his larger work in Congress was ended, he contemplated retiring to his beautiful island home to devote the remainder of his life to his fast vanishing race. But the fates which guard the destinies of men had decreed otherwise. Death and the prince had made a rendezvous, and death was punctual. We shall encounter this cultured gentleman upon this earth no more forever. Far out in the midst of a lonely waste of waters he sleeps in the arms of the land he loved and served so well.

There are those of us who knew him most intimately who are grateful that a merciful Providence has given to man the faculty of memory which robs the grave of its tenant and permits us to people the present with those whom we have loved and lost awhile.

Ah, Memory, the world would be lonely without you. When the road seems at an end, when the future is dark and foreboding, when grief and anguish and despair are our familiars, how stealthily you come creeping to us with the shadow of dreams in your eyes. How you speak to us in the loved tones of a voice that has long been silent. How you walk with us in the measured tread of familiar steps that have long been still. How you look upon us with the dear eyes from which the light has long since faded. How you create forms from shadows and illumine a dead past with a light that makes it a vivid and enduring present. Without you, O Memory, there would be no history, for there would be no past. Without you, children would look

into the faces of parents and call them strangers, love would die from the hearts of the race, and the sons of men would walk a lonely earth without one familiar face in the universe of God.

I do not know what waits at the end of the road; but faith begins where knowledge ends, and I have faith. I do not know that empty arms will hold again the forms that have been lost in the shadows, but I hope and I believe. I do know that when I enter the little green gate I shall seek and shall be disconsolate until I find some men, some women, and many children.

And I think I shall search for you, my friend.

Mr. KAHN. Mr. Speaker, I regret exceedingly that the condition of my health did not permit my attending the session of the House of January 7, 1923, so that I could say a few words regarding our deceased colleague, Delegate JONAH K. KALANIANA'OLE, of Hawaii.

Everyone who knew the "Prince," as he was popularly called, respected and honored him in his position. The people whom he represented in the Congress of the United States by electing him repeatedly as their Delegate showed the whole country in what esteem Mr. KALANIANA'OLE was held by the citizens of Hawaii.

I visited the islands in the year 1911. At that time the Delegate felt that he did not care to continue in Congress. The statement was frequently made in Honolulu and other communities in the islands to the effect that the Delegate would not again be a candidate for reelection. Just about that time Mr. KALANIANA'OLE had honored me by inviting me to attend a "luau," as they called their native feasts. About 50 of the leading citizens of the islands had been invited to be present. It was during this feast that I was called upon to make a few remarks regarding the Delegate. I told the guests very frankly that, in my opinion, they would do their Territory more good by the reelection of Mr. KALANIANA'OLE than by the election of any new Delegate in his place. The proposition was immediately taken up by all those present, including some of the leading Democrats of Honolulu. Everybody voiced an opinion favorable to Mr. KALANIANA'OLE. The consequence was that he decided to again become a candidate, to the delight of all his friends in the islands.

I did not always agree with the Delegate regarding legislation for the Territory of Hawaii. That was especially true regarding the matter of American shipping and the exclusion, under existing laws, of ships flying the flags of other countries. Happily, that legislation was never put into effect. The American ships running to the islands gradually increased in number and to-day represent a very efficient and effective force under the American flag.

I am happy to say that I was able repeatedly to help the Prince to get through legislation that his people really wanted. It was always a delight to talk over matters with him regarding various situations affecting the welfare of the islands.

He was, indeed, a very earnest and able advocate of those who had honored him by electing him as their Delegate to Congress.

At the announcement of his death the many Members who had become thoroughly acquainted with him during the 20 years of his service here expressed profound sorrow on the occasion of his passing.

We say in this place and at this time as a further mark of affection and respect, "Aloha!"

The SPEAKER pro tempore. Is there any other gentleman present who desires to make remarks? If not, in accordance with the resolution heretofore adopted, the House stands adjourned until 12 o'clock noon to-morrow.

Accordingly (at 1 o'clock and 7 minutes p. m.) the House adjourned until to-morrow, Monday, January 8, 1923, at 12 o'clock noon.

SENATE.

MONDAY, January 8, 1923.

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

Our Father, Thou art indeed good and gracious in all Thy dealings, and Thou art always ready to help us when crucial hours come and when anxiety presses. We ask that this day all shadows may be lifted and in the consciousness of Thine aid service may be rendered for the good of the country and to the glory of Thy name. In Jesus Christ we ask it. Amen.

The reading clerk proceeded to read the Journal of the proceedings of Saturday last, when, on request of Mr. LODGE and by unanimous consent, the further reading was dispensed with, and the Journal was approved.

PROPOSED CESSION OF CERTAIN WEST INDIA ISLANDS.

Mr. REED of Missouri. Mr. President, I gave notice that I would address the Senate on Wednesday next on the resolution which I offered regarding the West Indies. I ask unanimous consent that I may at the time of making the address display and place in front of the Vice President's desk certain maps where they may be seen by the Senate. I think the proceeding is a little out of the usual order and I thought I should ask permission of the Senate. The maps will be in the nature of an obstruction temporarily and I do not want to undertake to set them up without the permission of the Senate.

The VICE PRESIDENT. Is there objection to the request of the Senator from Missouri? The Chair hears none, and it is so ordered.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. Overhues, its enrolling clerk, announced that the House disagreed to the amendments of the Senate to the bill (H. R. 13559) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1924, and for other purposes; requested a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. CRAMTON, Mr. FRENCH, and Mr. CARTER were appointed managers on the part of the House at the conference.

PROPOSED SUMMER WHITE HOUSE.

The VICE PRESIDENT laid before the Senate a communication from the Secretary to the President of the United States, transmitting, at the direction of the President, a letter from the Safe Deposit & Trust Co., of Baltimore, Md., executors of the estate of J. Wilson Leakin, deceased, relating to his bequest of \$200,000 to buy land and erect a summer White House for the use of the President within automobiling distance of Washington, such legacy being contingent upon acceptance by Congress within 18 months from the death of the testator, which was referred to the Committee on Public Buildings and Grounds.

PETITIONS.

Mr. SHORTRIDGE presented a resolution adopted by the Fifty-fifth State Convention of Fruit Growers and Farmers of California, favoring the enactment of legislation to increase water-transportation facilities and for the encouragement of American shipping interests, which was ordered to lie on the table.

He also presented a resolution adopted by the board of directors of the San Diego (Calif.) Chamber of Commerce, favoring the passage of legislation providing for establishment of a minimum Regular Army of 150,000 enlisted men, which was referred to the Committee on Military Affairs.

REPORTS OF COMMITTEE ON CLAIMS.

Mr. BAYARD, from the Committee on Claims, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

A bill (S. 3328) for the relief of Almeda Lucas (Rept. No. 995); and

A bill (S. 3988) for the relief of the estate of Thomas N. Avery (Rept. No. 996).

Mr. FRELINGHUYSEN (for Mr. ERNST), from the Committee on Claims, to which was referred the bill (S. 4114) for the relief of Bertha N. Rich, reported it with an amendment and submitted a report (No. 997) thereon.

BILLS INTRODUCED.

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. LODGE:

A bill (S. 4288) to grant the consent of Congress for the special commission constituted by an act of the Legislature of Massachusetts to construct a bridge across the Merrimack River; to the Committee on Commerce.

By Mr. BALL:

A bill (S. 4289) granting a pension to Ellen T. Coughlin; to the Committee on Pensions.

By Mr. HALE:

A bill (S. 4290) granting a pension to Mary F. Spurling; and A bill (S. 4291) granting a pension to Thomas Hopkins (with an accompanying paper); to the Committee on Pensions.

By Mr. KENDRICK:

A bill (S. 4292) granting a pension to Mary Jordan (with accompanying papers); to the Committee on Pensions.

By Mr. WALSH of Massachusetts:

A bill (S. 4293) granting a pension to John A. McNeil; to the Committee on Pensions.

A bill (S. 4294) for the relief of William F. Conlin; to the Committee on Military Affairs.

A bill (S. 4295) for the relief of A. T. Marix; to the Committee on Claims.

By Mr. JONES of New Mexico:

A bill (S. 4296) for the relief of the estate of P. F. McCanna; to the Committee on Indian Affairs.

By Mr. CAPPER:

A bill (S. 4297) granting an increase of pension to Emma G. Walker (with accompanying papers); to the Committee on Pensions.

FRANCIS E. BARNEY—WITHDRAWAL OF PAPERS.

Mr. MOSES. I ask unanimous consent for the withdrawal of the papers filed with the Committee on Military Affairs on the bill (S. 1692) to correct the military record of Francis E. Barney, no adverse report having been made thereon.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

DIESEL ENGINES ON SHIPPING BOARD VESSELS.

Mr. POMERENE. I send to the desk a resolution, and ask that it may be read for the information of the Senate.

The resolution (S. Res. 400) was read, as follows:

Resolved, That the United States Shipping Board be, and it is hereby, directed to send to the Senate the following information:

First. How many ships belonging to the United States Shipping Board are now equipped with Diesel engines, and how many of said ships can be thus equipped.

Second. Give best estimate as to the reasonable cost of equipping said ships per ship and as a whole with the best type of Diesel engine, and the reasonable increase in the value and salability of said ships when thus equipped.

Third. Give the best estimate as to the reasonable increase in speed of said ships when thus equipped, and state the number of trips per year between United States Atlantic ports and European ports which can be made by said ships under present equipment and when equipped with Diesel engines.

Fourth. State the saving of fuel capacity and the cost of fuel in the operation of said ships thus equipped as compared with the fuel capacity and the cost of coal or oil used as fuel under the present type of equipment.

Fifth. State what would be the increase in the cargo capacity per ship caused by said change in equipment.

Sixth. What, if any, saving in crew or wage cost of operation would be occasioned by said change?

Mr. POMERENE. I ask unanimous consent for the present consideration of the resolution.

Mr. JONES of Washington. May I ask the Senator a question? As I heard the resolution, I think the Shipping Board would probably be justified in concluding that the Senator desires to have the facts stated with reference to each individual ship. If that is the case, it would take a great deal of time.

Mr. POMERENE. No; that is not the purpose of it. I have understood that the information can readily be presented. I do not expect exact information, as if we were entering into a contract, but I want the Senate to have the information in connection with the consideration of the pending bill.

Mr. JONES of Washington. General information as to the advantages of the Diesel engine equipment, and so on?

Mr. POMERENE. That is it exactly.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

The resolution was considered by unanimous consent and agreed to.

RETIRED RANK OF MARINE CORPS STAFF HEADS.

Mr. LODGE submitted an amendment intended to be proposed by him to the bill (H. R. 7864) providing for sundry matters affecting the Naval Establishment, which was referred to the Committee on Naval Affairs and ordered to be printed.

TRUTH IN FABRIC.

Mr. LODGE submitted an amendment in the nature of a substitute intended to be proposed by him to the bill (S. 799) to prevent deceit and unfair prices that result from the unrevealed presence of substitutes for virgin wool in woven fabrics purporting to contain wool and in garments or articles of apparel made therefrom, manufactured in any Territory of the United States or the District of Columbia or transported or intended to be transported in interstate or foreign commerce, and providing penalties for the violation of the provisions of this act, and for other purposes, which was referred to the Committee on Interstate Commerce and ordered to be printed.

THE MERCHANT MARINE.

Mr. LADD submitted an amendment intended to be proposed by him to the bill (H. R. 12817) to amend and supplement the merchant marine act, 1920, and for other purposes, which was ordered to lie on the table and to be printed.

AMENDMENT OF AGRICULTURAL APPROPRIATION BILL.

Mr. KELLOGG submitted an amendment intended to be proposed by him to House bill 13481, the Agricultural appropriation bill, which was ordered to lie on the table and to be printed, as follows:

Strike out all after line 9, page 29, and insert the following:
 "For the investigation and improvement of cereals, including corn, and methods of cereal production, and for the study and control of cereal diseases, including barberry eradication, and for the investigation of the cultivation and breeding of flax for seed purposes, including a study of flax diseases, and for the investigation and improvement of broom corn and methods of broom-corn production, \$772,505: *Provided*, That \$500,000 shall be set aside for the location and destruction of the barberry bushes and other vegetation from which rust spores originate and \$350,000 of said sum shall be allotted for expenditure in the States affected, and that no additional sum shall be expended in any State until it has, through State or local appropriations or through contributions of organizations or individuals, provided an equal amount: *Provided further*, That \$10,000 of the said sum of \$500,000 may be expended for investigations concerning dust-resistant wheat."

REPORT OF INTERCHURCH WORLD MOVEMENT ON STEEL STRIKE.

Mr. CALDER. Mr. President, I ask unanimous consent to have printed in the RECORD in 8-point type an article from today's New York Tribune, by Gilman Parker, which reviews a book just published by Marshall Olds on the report of the Interchurch World Movement on the steel strike. This book, I understand, entirely substantiates the Senate investigation of the steel strike and explains and exposes a new type of radical propaganda in the United States.

There being no objection, the article was ordered to be printed in the RECORD in 8-point type, as follows:

[From the New York Tribune, January 8, 1923.]

CHURCH STEEL STRIKE REPORT DECLARED OF RADICAL BIAS—FINDINGS OF 1920 QUERY FALSE, DISTORTED, SAYS ANALYST—FOSTER'S ASSOCIATE REVEALED AS AUTHOR—INVESTIGATION VEHICLE OF EXTREMIST PROPAGANDA, LEADERS NOW BELIEVE; COMMUNIST HAND SEEN.

(By Gilman Parker.)

The report of the Interchurch World Movement on the steel strike, which created a furore when made public in 1920, which since has been widely used in radical propaganda and which was a prominent cause of the ending of the movement itself, has been repudiated by leading former officials of the organization as a false, misleading, and prejudiced product of radicalism.

This disclosure was made in New York City yesterday by the release to the newspapers of the first copies of a book bearing the title "Analysis of the Interchurch World Movement Report on the Steel Strike," an exhaustive study of nearly 500 pages delving into every detail of the report, and purporting to expose, step by step, the baselessness of the charges, statistics, and other data contained in the document. Marshall Olds, a writer on economic subjects, is the author of the analysis. He was led to undertake the work about two years ago, when, in examining material for a series of articles for the New York Tribune on "The high cost of strikes," he discovered certain discrepancies in the interchurch report. From that time Mr. Olds devoted his entire attention to preparing the analysis.

SPONSORS OF REPORT BACK EXPOSE.

One point upon which Mr. Olds lays emphasis is that in preparing the analysis he was given the wholehearted cooperation of many of the interchurch movement's former officials, who, having the true facts as to the report brought to their attention, appeared eager to aid in undoing the harm it has caused.

A brief summary of the book's principal charges, all of them backed, according to the author, by voluminous evidence, follows:

1. That a very considerable number of the statistics and other data presented by the report, upon which its leading radical conclusions were founded, were distorted and erroneous.
2. That practically all evidence favorable to the steel companies, and easily available at the time the report was formulated, was deliberately omitted from the document.
3. That numerous of the statements made in the report's "rock-bottom affidavits," and similar material held up as of the greatest importance, were previously repudiated under oath by their makers in Senate committee hearings and elsewhere, and that a number of the affidavits themselves were supplied by James R. Maurer, president of the Pennsylvania State Federation of Labor and a well-known radical.
4. That many of the report's conclusions are, for all practical purposes, parallel with the leading declarations of a manifesto issued by the New York branch of the communist party—now outlawed—to the longshoremen on the occasion of their strike three years ago.

WRITTEN BY RADICAL.

5. That the report was written by Heber Blankenhorn, a Greenwich villager, according to the analysis, who was associated with numerous radicals and radical organizations, including William Z. Foster, supreme leader of the steel strike. Blankenhorn and Foster are associated in The Federated Press, recently investigated and condemned by the American Federation of Labor for revolutionary radicalism, and stated in communist reports to Moscow, seized at Bridgeman, Mich., by Government officials, to be supported by the communists.

6. That associated with Mr. Blankenhorn in preparing or supporting the report, directly or indirectly, were such well-known New York radicals and "liberals" as Robert W. Bruere, of the Bureau of Industrial Research; George Soule, of the Labor Bureau (Inc.); Roger Baldwin, of the American Civil Liberties Union; David J. Saposs, who was associated with L. A. K. Martens, the soviet emissary to the United States; and Mrs. D. Willard Straight. [Mrs. Straight, according to three gentlemen intimately associated with the movement, donated \$50,000 to the movement, with the express provision that the money was to be used in the industrial department only. They stated that it was generally believed in the inner circles of the movement that the report was completed and published with this money.]

7. That in addition to the staff of field investigators who gathered material for the report, all termed radicals, some of the members of the commission of inquiry appointed to direct the work, most of them ministers, are strongly inclined toward radicalism. Bishop Francis J. McConnell, Methodist, the commission's chairman, is quoted as having said: "Whatever we do, we must keep alive in the church the spirit of prophetic radicalism; * * * a man had better say 1,000 wild things and get some good truth uttered." Bishop Charles D. Williams, Episcopal, is also criticized.

CHARGE "BORING FROM WITHIN."

8. That the report in its entirety represents a new type of radical propaganda, aiming to "bore from within" among religious and social organizations—in addition to utilizing such tactics in the first-line objective of the trade-unions—whether cloaked as "liberalism" or using some other guise.

The analysis begins with a foreword, with the opening statement from the pen of Dr. Jeremiah W. Jenks, research professor of government and public administration of New York University, who was a leading associate in the interchurch movement. This is in effect an apology for the fact that the report was produced, and even that the investigation which produced it was undertaken.

"From the very nature of their business," wrote Professor Jenks, "ministers of the Christian religion have not the training or the experience to make such an investigation, or even to plan and guide such an investigation. * * * Very many of us felt that for the Interchurch World Movement to attempt to intervene in this great strike was probably ill-advised."

There follows one of the most important features of the analysis, the leading statement of repudiation of the report by former officials connected with the movement. This is made by the Rev. William Hiram Foulkes, chairman of the executive committee, the movement's supreme body, which finally approved the report for publication.

CALLS EVIDENCE BIASED.

"I fear from what I have heard after the investigation had been made," reads the statement, "that some of the actual investigators were not as unprejudiced as they should have been and that, personally representing one side of the controversy, their testimony was, therefore, liable to be discounted."

Next is a statement from Stanley Went, a member of the interchurch movement's publicity department, quoting a letter written by him to Tyler Dennett, the department head, accompanying the original draft of the report, which had been given to Mr. Went to edit. Incidentally, Mr. Dennett is quoted later on in the book as declaring the report was "substantially as Mr. Blankenhorn wrote it." Mr. Went's letter follows:

"In accordance with your wishes, I have edited the accompanying steel report as lightly as seemed compatible with the end in view. That end, as I understand it, was to present the report in a form which should give the least possible impression of bias on the part of the investigating committee.

"I would a great deal rather the report was published in its original than its present form, for the bias of the original seems to me so patent that it would make it a comparatively easy matter to discredit the entire report. My feeling, after editing the report, is that even now I have used the pencil too lightly; but I have rather leaned over backward in a desire to

present the case of the commission (the commission of inquiry into the steel strike, mostly ministers, appointed by the interchurch movement for the investigation) as much as possible in the way the original writer thought that it should be presented."

FIRST EDITOR SUPPLANTED.

To this Mr. Went adds the following explanation:

"The activities of the Interchurch World Movement came to an end very soon after I had completed that first editing and my connection with the movement ceased. Subsequent editing was done by other hands."

[The "subsequent editing," it is shown further on in the book, was performed under the direction of Robert W. Bruere and his "liberal" Bureau of Industrial Research.]

The first chapters of the analysis deal with wages paid in the steel industry, with many tables of official Government statistics produced to shatter the contention of the interchurch report that "steel common labor has the lowest rate of pay of the trades for which there are separate statistics for laborers."

Example after example of the alleged distortion in the report's figures and arguments are given by Mr. Olds. For instance, the report makes it appear that the United States Steel Corporation had a one year's surplus in 1918 of \$466,888,421, and again, in 1919, another one year's surplus of \$493,048,201, whereas it is shown in the analysis that the 1918 surplus "represented the cumulative savings of 18 years," and that the 1919 figures were actually those savings plus \$26,000,000, the total surplus for 1919.

AFFIDAVITS DECLARED FALSE.

Similarly, the analysis, by the presentation of sworn testimony given in the hearings of the Senate committee which investigated the steel strike, riddles the "rock-bottom affidavits" on which the report's charges of police brutality and abrogation of constitutional rights were based. A good example is in connection with the following excerpt from the interchurch report:

"At the very beginning of the strike charges of brutal assault and attacks were made by the strikers and their leaders against the State constabulary, the deputy sheriffs, and the company guards. The first audible protest against these violations from an outside person came from Father A. Kazinci, of Braddock, when he wrote to Governor Sproul and described in detail the assault of State troopers upon his people as they were coming out of church, and the driving of horses by the same State police upon little children as they were assembled in the school yard. Numerous charges of assaults and attacks were also brought out before the Senate committee."

The testimony of Father Kazinci before the committee, given months before and easily available to the compilers of the report, is cited by Mr. Olds, as follows:

"Senator McKellar. Have you seen any persons clubbed by the State constabulary?"

"Father KAZINCI. No, sir; I have not."

"Mr. RUBIN (strikers' attorney). Have you seen them after they have been clubbed?"

"Father KAZINCI. I have seen one."

"Mr. RUBIN. Describe the wounds."

"Father KAZINCI. He did not show me any of the wounds, but he told me about the incident."

As to the "driving of horses upon little children," Father Kazinci told the committee he "had it from the sisters," and went on to explain that he couldn't bring any of the latter to testify, because "they are under the jurisdiction of the authorities and not allowed to leave their convent without their permission."

In one instance, the analysis points out, the report changed the name of the man making an affidavit so that neither from its own index nor that of the Senate hearings could it be discovered that the "evidence" on which the affidavit was based had been repudiated months before.

The main conclusion of the analysis is that the report was written and is now being used as a leading asset of radicalism in an extension to religious and social organizations of "boring from within" tactics is contained in an "afterword."

The VICE PRESIDENT. Morning business is closed.

CALL OF THE ROLL.

Mr. FLETCHER. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The reading clerk called the roll, and the following Senators answered to their names:

Ashurst	Broussard	Caraway	Curtis
Ball	Bursum	Colt	Dial
Bayard	Calder	Couzens	Dillingham
Borah	Cameron	Culberson	Ernst
Brandegee	Capper	Cummins	Fletcher

France	Ladd	Oddie	Spencer
Frelinghuysen	La Follette	Pepper	Stanley
George	Lenroot	Phipps	Sterling
Gerry	Lodge	Pomerene	Townsend
Glass	McCormick	Ransdell	Trammell
Hale	McCumber	Reed, Mo.	Underwood
Harris	McKellar	Reed, Pa.	Wadsworth
Heflin	McNary	Robinson	Walsh, Mass.
Johnson	Moses	Sheppard	Walsh, Mont.
Jones, Wash.	Nelson	Shields	Warren
Kellogg	New	Shortridge	Weller
Kendrick	Nicholson	Simmmons	
Keyes	Norbeck	Smith	

Mr. CURTIS. I wish to announce that the junior Senator from Ohio [Mr. WILLIS] is necessarily detained on account of serious illness in his family.

Mr. LA FOLLETTE. I wish to announce that the Senator from Nebraska [Mr. NORRIS] is absent by reason of a death in his family. I will let this announcement stand for the day.

The VICE PRESIDENT. Seventy Senators having answered to their names, a quorum is present. The calendar under Rule VIII is in order.

MYSTIC SHRINE CONVENTION.

Mr. BALL. Mr. President, I ask unanimous consent for the immediate consideration of Order of Business No. 923, being Senate Joint Resolution 247.

Mr. WARREN. Mr. President, I inquire of the Senator from Delaware if that is a measure of an urgent character?

Mr. BALL. The joint resolution is of an urgent character. It is designed to provide increased police protection, and so forth, during the occasion of the convention of the Mystic Shrine to be held in Washington in the early part of June. The joint resolution authorizes an appropriation of \$25,000. It is estimated that during the two weeks of the convention there will be at least 350,000 visitors in Washington and certainly 10,000 additional automobiles. The commissioners claim that they can not with their present force protect the citizenship of the District and the visitors who will be in attendance upon the convention.

Mr. WARREN. I shall not object to the consideration of the joint resolution if it will not lead to any extended debate.

Mr. FLETCHER. Is there any need for the joint resolution being considered at this particular time?

Mr. BALL. Mr. President, it is necessary that the joint resolution should be acted upon by the Senate at the earliest possible moment, for the reason that there will be but two or three more District days in the House of Representatives; and unless the joint resolution shall be passed soon, no opportunity will be afforded of considering it in the other body.

Mr. FLETCHER. I have no objection.

The VICE PRESIDENT. Is there objection to the consideration of the joint resolution?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. J. Res. 247) providing funds for the maintenance of public order and the protection of life and property during the convention of the Imperial Council of the Mystic Shrine in the District of Columbia June 5, 6, and 7, 1923, and for other purposes, which had been reported from the Committee on the District of Columbia with amendments in section 1, page 1, line 3, after the word "That," to strike out "\$50,000" and insert "the sum of \$25,000"; in line 4, after the word "hereby," to insert the word "authorized"; on page 2, line 6, after the word "commissioners," to strike out "There is hereby further appropriated the sum of \$4,000, or so much thereof," and to insert "and authority is hereby given to use so much of said sum"; and in line 9, after the word "necessary," to strike out "payable as aforesaid," so as to make the section read:

That the sum of \$25,000, or so much thereof as may be necessary, is hereby authorized to be appropriated, payable in the same proportion as other expenses of the government of the District of Columbia are now paid from the revenues of the District of Columbia and the revenues of the United States, to enable the Commissioners of the District of Columbia to maintain public order and protect life and property in the District of Columbia from the 25th day of May, 1923, to the 10th day of June, 1923, both inclusive, including the employment of personal services; the payment of allowances; traveling expenses; hire of means of transportation; and other incidental expenses in the discretion of the said commissioners; and authority is hereby given to use so much of said sum as may be necessary for the construction, rent, maintenance, and for incidental expenses in connection with the operation of temporary public convenience stations, first-aid stations, and information booths, including the employment of personal services in connection therewith, during said period.

The amendments were agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

SECOND DEFICIENCY APPROPRIATION BILL.

Mr. WARREN. Mr. President, I ask unanimous consent for the present consideration of House bill 13615, being the second deficiency appropriation bill. It is a small bill in number of pages, and very few amendments have been reported by the committee. It will take, I think, but a short time to consider it.

The VICE PRESIDENT. Is there objection?

Mr. FLETCHER. Mr. President, there is so much confusion in the Chamber that I could not catch the request of the Senator from Wyoming, and I wish to ask, Do I understand that the Senator asks unanimous consent that the calendar may be laid aside and that the appropriation bill named by him may be now taken up?

Mr. WARREN. The appropriation bill for which I now ask consideration is one which may be called up at any time, as it has precedence.

Mr. LODGE. A motion to take up an appropriation bill is always in order.

Mr. WARREN. I wished to have the appropriation bill taken up and disposed of, if I could, because it will take, I think, only a short time, and then we may go to the calendar.

Mr. FLETCHER. Under the rule, this being Monday, it will require unanimous consent to lay aside the calendar, I take it. I am not disposed to raise an objection, but I do not know the attitude of other Senators in regard to the request. There is, however, one bill on the calendar in which I am very much interested, but it is pretty far down on the calendar, and I am not disposed to raise an objection in order to reach the bill. I think it will be reached at some time during the session. I am merely calling attention to the fact which I have stated, that I do not know the attitude of other Senators with reference to the consideration of the calendar; but, so far as I am concerned, I shall not enter any objection to the request of the Senator from Wyoming.

Mr. SMITH. May I ask the Senator from Wyoming for what appropriation bill he now asks consideration?

Mr. WARREN. It is the second deficiency appropriation bill. It involves some rather urgent matters. As stated, it is a short bill, and I hope there may be no objection to its consideration.

The VICE PRESIDENT. Is there objection?

Mr. KELLOGG. I do not wish to enter objection to the Senator's request, but could there be some arrangement whereby the calendar may be taken up later? There is a bill, though it is rather late on the calendar, and might not be considered even though the calendar were taken up this morning, as Senators might object to it, which is of vital importance, because it provides a new rule for the taxation of national banks, and unless it be passed at this session, at least to a considerable extent, the tax laws and tax systems of the States are going to be disrupted. If we may have an understanding as to when the calendar shall be taken up, I shall not object to the request of the Senator from Wyoming.

Mr. WARREN. Let me say to the Senator from Minnesota that I shall do everything I can to assist him in having the calendar taken up; but as the appropriation bill, as I have stated, is a rather short bill and will have to go to conference for consideration in order to clear the way for the consideration and passage of other appropriation bills, I hope there may be no objection to its consideration.

Mr. KELLOGG. I shall not object to the consideration of the bill.

Mr. SMITH. May I ask the Senator from Wyoming if it is his intention as soon as the bill is disposed of that we may revert to the calendar?

Mr. WARREN. So far as I am concerned, I hope that may be done.

Mr. SMITH. The Senator from Wyoming, as I understand, does not anticipate any difficulty in passing the bill, there being no controversial matters involved?

Mr. WARREN. I hope not. I do not know of any controversial items, because they are all House items with the exception of additions which have been made for the payment of judgments and audited accounts, and a few Senate items added by the Senate committee, aggregating only \$234,835.08 altogether, \$7,500 of which amount is for the payment of the widow of a deceased Senator.

Mr. SMITH. If it is understood that as soon as the appropriation bill is disposed of we shall have an opportunity to go to the calendar and consider certain important measures, so far as I am concerned, I shall not object.

Mr. JONES of Washington. I wish to say that, so far as I am concerned, having charge of the shipping bill, if the appropriation bill be now taken up and disposed of promptly,

I shall be disposed to allow the unfinished business when 2 o'clock comes to be laid aside temporarily, so as to give some additional time for the consideration of bills on the calendar, so that nothing will be lost at any rate out of the two hours.

Mr. SMITH. That is all right.

The VICE PRESIDENT. Without objection, it is so ordered; and the Chair lays before the Senate the appropriation bill the consideration of which is asked for by the Senator from Wyoming.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 13615) making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1923, and prior fiscal years, to provide supplemental appropriations for the fiscal year ending June 30, 1923, and for other purposes, which had been reported from the Committee on Appropriations with amendments.

Mr. WARREN. Mr. President, the pending bill is not a long one, and I hope it may not be necessary to read it twice. So I now ask that the formal reading of the bill may be dispensed with, and that the bill may be read for amendment, committee amendments to be first acted on.

The VICE PRESIDENT. Without objection, it is so ordered.

The Secretary proceeded to read the bill:

Mr. LODGE. Mr. President, I ask the chairman of the Committee on Appropriations, as I am obliged to leave the Senate in a few moments, if he will permit me at this time to offer an amendment which is purely verbal, and which, if adopted, will not affect any appropriation or change the law, but which is intended to make the present language of the bill more clear?

Mr. WARREN. I yield to the Senator from Massachusetts for that purpose.

Mr. LODGE. On page 17, line 15, I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment proposed by the Senator from Massachusetts will be stated.

The READING CLERK. On page 17, line 15, it is proposed to strike out the words "prior year claims, fiscal year 1922" and to insert in lieu thereof "fiscal year 1922 claims and prior year claims," so that the clause as amended will read:

For refunding taxes illegally collected under the provisions of sections 3220 and 3689, Revised Statutes, as amended by the act of February 24, 1919, including the payment of fiscal year 1922 claims and prior year claims, \$42,430,000.

Mr. FLETCHER. Mr. President, do I understand that the Senator from Massachusetts is offering what has just been read at the desk as an amendment?

Mr. LODGE. I have asked unanimous consent to do so. The amendment merely makes a verbal change; it proposes no alteration in the amount and no alteration of the law. As the bill now stands, it seems to me that the language is very blind and does not express what it is undoubtedly intended to mean.

Mr. WARREN. The clause proposes to refund internal revenue taxes which may have been illegally collected. That is its entire object.

Mr. FLETCHER. Do I understand that the amendment now proposed by the Senator from Massachusetts is acceptable to the Senator from Wyoming, representing the committee?

Mr. WARREN. It is entirely agreeable to the committee.

Mr. LODGE. My amendment merely proposes a verbal change.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Massachusetts.

The amendment was agreed to.

The VICE PRESIDENT. The Secretary will proceed to read the bill.

The reading clerk proceeded to read the bill.

The first amendment of the committee was on page 2—

Mr. FLETCHER. I ask that the bill may be read. We have dispensed with the formal reading of the bill, but it ought to be read now for amendment.

The VICE PRESIDENT. The Secretary is reading the bill for amendment and was reading the first committee amendment.

Mr. FLETCHER. I have not heard the Secretary read the bill at all. Has the Secretary read the bill from the beginning?

The VICE PRESIDENT. He has read it.

Mr. WARREN. Does the Senator from Florida ask that the bill may be read before any of the amendments are acted upon?

Mr. FLETCHER. We have not dispensed with the reading of the bill.

Mr. WARREN. I am not disposed to object, if the Senator wishes it read, but I think it would expedite business if the bill is read only once.

Mr. FLETCHER. I have no objection to that procedure, but I do not think that we ought to skip to the committee amendments without reading the bill; that is all.

The READING CLERK. At the top of page 2, after line 1, under the head "Legislative," it is proposed to insert the following:

SENATE.

To pay Georgia Durham Watson, widow of Hon. Thomas E. Watson, late a Senator from the State of Georgia, \$7,500.

The amendment was agreed to.

The next amendment was, on page 2, after line 5, to insert:

To enable the Secretary of the Senate to pay from the appropriation for 1923 for compensation of officers, clerks, messengers and others, to Anna Dawson for services as clerk rendered the Hon. SMITH W. BROOKHART, a Senator from the State of Iowa, from November 10, 1922, to December 1, 1922, at the rate of \$2,500 per annum and additional compensation at the rate of \$240 per annum.

The amendment was agreed to.

Mr. HEFLIN. Mr. President, a few days ago I called to the attention of the Senate and the country the fact that the Debt Funding Commission provided for by Congress was composed of five partisan Republicans; that the Democrats were not represented at all upon that commission; and that this was unfair not only to the Democratic Party but to the whole people of the United States. It is a violation of a custom that has long obtained with both parties in Congress. I see in the Washington Post this morning that the debt envoys of Great Britain are in the city and that the United States commission is to hold its first session with these envoys to-day.

Mr. President, the Senator from Georgia [Mr. HARRIS] has a bill pending which provides for the appointment of Democratic members upon this commission. When I raised this question before, the Senator from Georgia, who is urging action upon his bill, stated that he thought some of the members of the Finance Committee were favorable to his bill, but that the chairman of that committee, the Senator from North Dakota [Mr. McCUMBER], was absent at the time. I observe that he has returned to the city, he has been in the Chamber this morning, and I want to know of the chairman of that committee what is being done with regard to taking favorable action upon the bill of my friend the Senator from Georgia. I am going to discuss it briefly now, and on to-morrow morning I will discuss it again. I urged the appointment of Democratic representation upon that commission at the time the commission was created, and I am now heartily in favor of the bill of the Senator from Georgia. The Senator from Georgia is entitled to know, I am entitled to know, and other Democrats here and elsewhere are entitled to know, and the whole people are entitled to know whether five partisans of any party are going to be permitted to sit behind closed doors and carry on negotiations regarding the \$12,000,000 debt owed to the American people.

Mr. President, on the Committee on Appropriations—one of the standing committees of the Senate—which appropriates the money of the people for various purposes, there are 10 Republicans and 6 Democrats. Even on the Committee to Audit and Control the Contingent Expenses of the Senate there are three Republicans and two Democrats. On the Committee on Expenditures in the Executive Departments there are four Republicans and three Democrats. On the Committee on Finance, which has the consideration of measures that tax the American people and impose a tax upon consumption, there are 10 Republicans and 6 Democrats. I submit to the Senate and to the country, if the Senate recognizes the importance of appointing Democrats on the committee that looks after the contingent expenses of the Senate and if it appoints Democrats on the committee that appropriates the money of the people for various purposes and if it appoints Democrats upon the committee that has to do with taxing the American people, why should we not have representation upon a commission that is to consider what shall be done with an indebtedness of \$12,000,000 owed to the American people?

Mr. President, this money came from the body of the people generally. As I said before, Democrats and Republicans contributed to this fund. That money has been loaned to foreign countries; and when the Republican Congress came to consider a commission to handle this matter it appointed five Republicans and not a single Democrat. I protested against that action at the time. I submit that it is unfair, it is unjust to deny the Democrats representation upon that commission. The Republican Party has already suffered for its conduct in that matter. It suffered for it in the last election. I never discussed anything upon the stump in the States in which I spoke that seemed to me to arouse the people more than the unfairness and the partisanship displayed by the Republican Party in appointing this debt commission. I asked the people who heard me,

as I am going to ask the Senate and the country to-day, what right has any political party in control of this Government to arrogate to itself the authority to handle an indebtedness of billions of dollars owed to the whole American people, to have its partisans sit behind closed doors and carry on whispered conversations as to propaganda that may be carried on in order to educate the people of the United States into a frame of mind favorable to debt cancellation? I think the desire to cancel the debt is at the bottom of this one-sided commission provided for by this Republican Congress. I think things are going on behind the screen that they do not want the Democrats to know.

If that is not true, why should we not have representation upon that commission? What reason is there for not appointing some Democrats on that commission? We are part and parcel of this great country. I want to repeat that if President Wilson had been in the White House and the Democrats had been in control of Congress, and we had appointed five Democrats to handle that debt of \$12,000,000,000, we never would have heard the last of it from the other side of this Chamber. They are not going to hear the last of it soon in this Chamber unless they right the wrong they have done in this matter.

Mr. President, the people of the United States are tax burdened and debt ridden. They are entitled to have this money that is owed to us by foreign countries collected, or certain parts of it, as soon as possible, so as to reduce taxes here and relieve our own people. These people are vitally concerned. This is their Government. This money belongs to them, and they ought to be heard in the matter as to who shall sit in judgment upon these negotiations; but they are not heard. Nobody but Republicans sit on that commission. The Secretary of the Treasury, the Secretary of State, the Secretary of Commerce, and the ranking member of the Finance Committee of the Senate—the man who will be the next head of the tariff committee, who supported the most obnoxious and oppressive tariff bill ever passed through this body—are sitting behind closed doors upon this commission, and an ex-Senator, Representative BURTON, a very clever gentleman, is the member of the House—five in all, and not a single Democrat upon the commission!

I rose this morning to protest against such partisan conduct. I am going to continue to protest against it, and I serve notice on the other side now that I am going to continue to inquire what is the purpose of that side with regard to this matter. We are entitled to have representation upon that commission. I insist that we have it, and, in hearty cooperation with the Senator from Georgia, I call upon the Committee on Finance to report out his bill, and if that is not done we will on to-morrow take steps to discharge it from the further consideration of the bill that is now before it and ask to have it brought before the Senate for immediate consideration.

The VICE PRESIDENT. The Secretary will continue the reading of the bill.

The reading of the bill was resumed.

The next amendment of the Committee on Appropriations was, under the head "Executive Departments," in the items for the Forest Service, Department of Agriculture, on page 5, line 11, before the word "motor," to strike out "gasoline"; so as to read:

FOREST SERVICE.

To enable the Secretary of Agriculture to purchase a motor boat in the administration of the Alaskan forests to replace boat sunk by striking rocks in Sumner Strait, \$8,500.

The amendment was agreed to.

The reading was continued to line 18, page 10, the last paragraph read being as follows:

Salaries and expenses of clerks, United States district courts: For salaries of clerks of United States district courts, their deputies, and other assistants, expenses of travel and subsistence, and other expenses of conducting their respective offices, in accordance with the provisions of the act approved February 26, 1919, fiscal year 1922, \$10,177.49.

Mr. TRAMMELL. While we are considering this paragraph of the bill, I would like to ask the chairman of the committee if he has considered the question of making an increase in the per diem allowance of deputy clerks and deputy marshals of the courts. Considerable complaint has been made to me in regard to that. It is complained that under the present high cost of living, and with the excessive hotel expenses, these men have not sufficient with which to meet their necessary expenses when they are away from their headquarters. Has that question been brought to the attention of the committee?

Mr. WARREN. Whatever could be done with that has been taken care of in the State and Justice appropriation bill, which passed very lately. It would not belong in this bill at all, because the appropriations for the future are in that bill.

Mr. TRAMMELL. I desired to bring it to the attention of the chairman of the committee, because I have had considerable complaint brought to my attention in regard to it.

Mr. CURTIS rose.

Mr. WARREN. The Senator from Kansas [Mr. CURTIS] had charge of the State and Justice appropriation bill.

Mr. CURTIS. That matter was reported upon by the Department of Justice, and was taken care of in the Department of Justice appropriation bill, which was passed recently. It will take effect July 1 next.

Mr. TRAMMELL. I thank the Senator.

The reading of the bill was continued.

The next amendment was, under the subhead "Postal Service, Office of the Postmaster General," on page 14, line 20, to increase the appropriation for payment of rewards for the detection, arrest, and conviction of post-office burglars, robbers, and highway mail robbers, fiscal year 1921, from "\$7,750" to "\$17,500."

The amendment was agreed to.

The next amendment was, at the top of page 17, to insert: INTERNATIONAL BOUNDARY COMMISSION, UNITED STATES AND MEXICO.

To enable the President to perform the obligations of the United States under the treaties of 1884, 1889, 1905, and 1906, between the United States and Mexico, including not to exceed \$900 for rent, in addition to the amount appropriated under this head in the act making appropriations for the Departments of State and Justice and for the judiciary for the fiscal year ending June 30, 1923, \$3,985.

The amendment was agreed to.

The reading was continued to line 18, page 17, the last paragraph read being as follows:

TREASURY DEPARTMENT.
BUREAU OF INTERNAL REVENUE.

For refunding taxes illegally collected under the provisions of sections 3220 and 3689, Revised Statutes, as amended by the act of February 24, 1919, including the payment of prior year claims, fiscal year 1922, \$42,430,000: *Provided*, That a report shall be made to Congress of the disbursements hereunder as required by the act of February 24, 1919.

Mr. WARREN. The amendment offered by the Senator from Massachusetts [Mr. LODGE] in the early part of the consideration of the bill, and agreed to, comes in at this place.

Mr. TRAMMELL. Mr. President, I desire to ask what constitutes the major portion, at least, of this appropriation made for refunding forty-two million and odd dollars on account of illegal income-tax collections. Will the Senator give a little information on the subject?

Mr. WARREN. That is an accumulation of claims against the department which are constantly arising and which under the law must be paid. We are also constantly collecting taxes in cases where the returns were incorrectly given. For instance, we are collecting from \$20,000,000 to \$25,000,000 a month additional on prior years' levies. On the other hand, there is the matter of refunds, and this is for an accumulation of illegally paid taxes, largely those paid before the Supreme Court had held unconstitutional the regulation of the department in regard to stock dividends.

Mr. TRAMMELL. That probably constitutes a considerable part of this \$42,000,000.

Mr. WARREN. It does, although this covers a matter of some years. This is simply to carry out a law already in existence.

Mr. TRAMMELL. Mr. President, I was apprehensive that this refund of \$42,000,000 embraced very largely payments made under the stock-dividend provision of the law, whereby the large corporate interests of this country have evaded payment to the Government, in my opinion, of their just proportionate part of the expenditures of the Government. As far as the committee's action is concerned, of course it is in keeping with the decision of the Supreme Court.

This brings to mind something that has been going on in this country during the last six or eight weeks. We have noticed corporation after corporation converting their incomes into stock dividends, and of course there have been all kinds of reasons given as to why they did so, but one reason stands out paramount—that is, that they are evading the payment of income taxes. While everybody else in this country is required to contribute to the support of the Government on the basis of his income, the big corporate interests of the country are evading the payment of their just proportion of the income taxes. Most of these stock dividends constitute bold, brazen cases of tax dodging.

I read some figures yesterday in regard to this in the Literary Digest, and I regret that I have not the copy with me to present to the Senate. Those figures show the enormous dividends declared by a great many of the corporations of the country, which have been distributed in the way of stock dividends. Regardless of the decision of the Supreme Court, and in justice

and in equity, Congress should enact laws which would reach that form of income, and make the interests which are carrying on business that is prosperous, the percentages running into the thousands of per cent of income, contribute their part of the taxes upon their incomes.

To me it is indefensible that we have a system of taxation which permits such evasion of the law on the part of those who in this way are dodging the income tax law. An individual may own a mercantile establishment, for instance, and have \$50,000 invested in that establishment. He enjoys a prosperous year and accumulates \$25,000 in the business. There is no way by which he can evade paying an income tax upon his net proceeds of \$25,000, a return upon his investment. If he decides to enlarge or extend his business and will invest \$25,000 in a building, so that he may have enlarged facilities for the purpose of maintaining that business, there is no way by which he can distribute to himself that \$25,000 for betterments or for improvements without paying his income tax upon that amount.

A man who maintains his farm or his grove may have had a prosperous year. Upon an investment of \$50,000 he accumulates \$10,000 net. He says, "I believe I will add a few acres to my farm. I will extend and enlarge my farming operations. I am going to put this money back in the business. It is true it will contribute a little to my increased holdings. I am going to plant a little additional growth and add a few acres to my present holdings." There is no way in which he can distribute that to himself without paying an income tax upon it. Why the discrimination? The system that permits it is all wrong.

If we are hedged about by constitutional provisions so that there is an avenue of escape for the most prosperous concerns in the country by declaring stock dividends, then we need a constitutional amendment so that such procedure may be rendered impossible and that there can not be an evasion of the income tax law or the intent of it as written by the Congress. I am a little afraid that we are not quite as zealous, at least some are not, to make those who are best able to pay and who are most prosperous in the country pay their part of the tax burden as we are to reach those who are less able to pay and who are less prosperous. It seems to me there is a drift and tendency along that line, regrettable as it is and destructive as it is to the advancement and fostering of a prosperous and happy people and a just government. Here we have a bill appropriating \$42,000,000 to be refunded for taxes illegally collected. I do not know the exact proportion, but I dare say a very large proportion of it is to be used for the purpose of refunding to those who have dodged the payment of their income taxes under the guise of stock dividends or some other nefarious scheme of that character. I think if we have not a law that will reach them then we should enact one or, if necessary, we should have a constitutional amendment.

Mr. SMITH. Mr. President, I wish to ask the chairman of the committee if he has any information from the Treasury Department as to the probable losses in revenue to the Treasury Department by virtue of the action of the Supreme Court on the stock-dividend proposition?

Mr. WARREN. I recall that it was stated at the time that it would amount to many millions—\$40,000,000 or \$50,000,000, or more—but I have not inquired. I think it would be rather difficult for the Treasury to give the exact amount. A great many of the smaller items have not been paid, and of course small corporations as well as large corporations were swept into it. It affected small corporations with their small capitalization, or where they were undercapitalized, as well as the larger corporations.

Mr. SMITH. The reason why I asked the question was that I have seen it stated several times that the Secretary of the Treasury had estimated that the loss in revenue to the Government would be up in the hundreds of millions of dollars, and I wanted to find out from the chairman of the committee if there had been any statement made to the committee or to him as to the probable reduction in revenue caused by the decision of the Supreme Court.

Mr. WARREN. Judging from the amounts we have appropriated to pay the adjusted claims, and I understand they have been working on them continuously, there would not be the amount the Senator has named. We have not believed that we could get the exact figures, and I do not think we could now; hence we have not asked for them, and have simply taken notice of such claims as have been adjudicated and appropriated therefor.

Mr. SMITH. Are all the claims up to date under that decision of the Supreme Court included in this deficiency bill?

Mr. WARREN. It includes only those that it would cover because of the manner in which those additions to capital

were made. There have been recently a very great many stock dividends declared, but those are not taxed, and consequently we have nothing to do with them.

Mr. SMITH. This is the point I was getting at: In the years previous to the decision of the Supreme Court the dividends and surpluses were taxed. Does the \$42,000,000 or a percentage of it include all? I understood the chairman to say the larger per cent was to meet the rebate that had to be made under the decision of the Supreme Court. Or has the Treasury Department settled any of the claims outside of those covered by the deficiency bill now before us?

Mr. WARREN. They had the privilege of settling some of the older ones; that is, to allow the use of the overpayment as an offset against new taxes. For instance, when the decision of the Supreme Court was rendered, there probably were individuals who owed for a year's taxes then due, and they were allowed, by virtue of certain legislation which we enacted, to take that amount out of the current taxes due, but these present items of course are sweeping up those which occurred perhaps 10 or 12 years ago and before the decision of the court.

Mr. SMITH. Whatever per cent of this sum represents the rebate required by the decision of the Supreme Court does not nearly represent the total amount that had to be refunded, as the Senator has just indicated, by the process of taking it from the current taxes that the corporation might owe. They just deducted whatever had been collected adversely to the decision of the court.

Mr. WARREN. Yes; for that short time.

Mr. SMITH. So the \$42,000,000 does not represent the total loss?

Mr. WARREN. No; the \$42,000,000 must not be understood as in correction of the stock-dividend proposition entirely. I said "a large part." The Senator said "the larger part." I think he would better adopt my language, "a large part," as I intended to state it. There have been some appropriations heretofore, one of \$12,000,000 or \$15,000,000, and we shall probably have some more of them. The Senator is a good lawyer and he keeps posted, and knows when the decision of the Supreme Court came. There has been time enough since, with a large force of inspectors, to cover nearly all of the claims, unless there was some lack of industry on the part of the claimants.

Mr. SMITH. I think it would be very interesting to find out, if it is possible, and I think at some time in the future I shall officially—

Mr. WARREN. I think if the Senator himself would apply to the Secretary of the Treasury for the information, he would get it as nearly accurate as any of us could, and I think he has the same right.

Mr. SMITH. As I was about to remark, I shall, for the benefit of the Senate and the public, ask the Secretary of the Treasury to furnish us as nearly as he can the data as to the amount lost in the form of revenue by the action of the court in that decision.

The Assistant Secretary resumed the reading of the bill.

The next amendment of the Committee on Appropriations was, under the heading, "Judgments, United States courts," on page 19, after line 18, to insert:

For payment of the judgment rendered against the United States by the District Court of the United States for the Eastern District of Virginia, sitting in admiralty, and certified to Congress in House Document No. 527 of the present session, under the Navy Department, \$20,000.

The amendment was agreed to.

The next amendment was, under the heading "Judgments, Court of Claims," on page 20, line 4, after the word "House," to strike out "Document No. 502" and insert "Documents Nos. 502 and 526," so as to read:

For payment of the judgments rendered by the Court of Claims and reported to Congress during the present session in House Documents Nos. 502 and 526, namely.

The amendment was agreed to.

The next amendment was, on page 20, line 8, to increase the appropriation for payment of the judgments rendered by the Court of Claims under the Navy Department from "\$37,996.44" to "\$40,283.78."

The amendment was agreed to.

The next amendment was, on page 20, line 11, to increase the appropriation for payment of the judgments rendered by the Court of Claims under the War Department from "\$136,899.60" to "\$217,872.73."

The amendment was agreed to.

The next amendment was, on page 20, line 12, to increase the total appropriation for payment of judgments rendered by the Court of Claims from "\$612,033.95" to "\$695,294.42."

The amendment was agreed to.

The next amendment was, at the top of page 35, to insert the following additional section:

AUDITED CLAIMS.

SEC. 3. That for the payment of the following claims, certified to be due by the General Accounting Office, under appropriations the balances of which have been exhausted or carried to the surplus fund under the provisions of section 5 of the act of June 20, 1874, and under appropriations heretofore treated as permanent, being for the service of the fiscal year 1920 and prior years, unless otherwise stated, and which have been certified to Congress under section 2 of the act of July 7, 1884, as fully set forth in House Document No. 528, reported to Congress at its present session, there is appropriated as follows:

INDEPENDENT OFFICES.

For salaries and expenses, United States Food Administration, \$11.36.

For housing for war needs, \$975.

For Interstate Commerce Commission, \$3.50.

For fuel, lights, etc., State, War, and Navy Department buildings, \$2.59.

For vocational rehabilitation, Veterans' Bureau, \$45.

DEPARTMENT OF AGRICULTURE.

For general expenses, Bureau of Plant Industry, \$1.23.

For general expenses, Bureau of Chemistry, \$13.11.

For suppressing spread of pink bollworm of cotton, \$20.

DEPARTMENT OF COMMERCE.

For general expenses, Lighthouse Service, \$9.

For salaries, keepers of lighthouses, \$40.45.

DEPARTMENT OF THE INTERIOR.

For maintenance, House Office Building, \$3.25.

For irrigation, Indian reservations (reimbursable), \$15.

For Indian school and agency buildings, \$30.50.

For purchase and transportation of Indian supplies, \$42.61.

For pumping plant, Colorado River Reservation, Ariz. (reimbursable), \$129.

For support of Sioux of different tribes, subsistence and civilization, South Dakota, \$2.13.

DEPARTMENT OF JUSTICE.

For fees of jurors, United States courts, \$33.

DEPARTMENT OF LABOR.

For war emergency employment service, \$2.20.

DEPARTMENT OF STATE.

For transportation of diplomatic and consular officers, \$457.36.

For clerks at embassies and legations, \$148.13.

For contingent expenses, foreign missions, \$273.18.

For allowance for clerks at consulates, \$93.86.

For contingent expenses, United States consulates, \$23.92.

For relief and protection of American seamen, \$1,036.21.

For national security and defense, Department of State, \$189.62.

TREASURY DEPARTMENT.

For contingent expenses, Treasury Department: Fuel, etc., \$80.04.

For expenses of loans, act September 24, 1917, as amended, \$1.14.

For refunding internal-revenue collections, \$1,000.

For salaries and expenses of collections, etc., of internal revenue, \$6.40.

For restricting the sale of opium, etc., \$9.95.

For allowance or drawback (internal revenue), \$341.40.

For Coast Guard, \$45.90.

For freight, transportation, etc., Public Health Service, \$3.40.

For maintenance, marine hospitals, Public Health Service, 24 cents.

For mechanical equipment for public buildings, \$7.90.

For operating supplies for public buildings, \$133.81.

For repairs and preservation of public buildings, 15 cents.

WAR DEPARTMENT.

For increase of compensation, Military Establishment, \$1,769.08.

For registration and selection for military service, \$89.10.

For Signal Service of the Army, \$1,031.35.

For Air Service, Army, \$84.62.

For pay, etc., of the Army, \$718.93.

For mileage to officers and contract surgeons, \$54.18.

For general appropriations, Quartermaster Corps, \$79,640.63.

For barracks and quarters, \$972.44.

For vocational training of soldiers, \$216.05.

For supplies, services, and transportation, Quartermaster Corps, \$15,025.87.

For medical and hospital department, \$474.

For engineer operations in the field, \$400.02.

For ordnance stores, ammunition, \$13.73.

For ordnance stores and supplies, 29 cents.

For arming, equipping, and training the National Guard, \$425.86.

For fortifications in insular possessions, \$7.50.

For armament of fortifications, \$1,420.36.

For proving-ground facilities, \$23.10.

For increase of compensation, rivers and harbors, \$202.97.

POST OFFICE DEPARTMENT—POSTAL SERVICE.

For city-delivery carriers, \$168.28.

For clerks, first and second class post offices, \$15.73.

For compensation to postmasters, \$127.45.

For railroad transportation, \$1,734.07.

For rent, light, and fuel, \$33.

For Rural Delivery Service, \$237.76.

For shipment of supplies, \$34.50.

For temporary clerk hire, \$68.40.

For temporary City Delivery Service, \$118.80.

Total, audited claims, section 3, \$110,339.61.

The amendment was agreed to.

The PRESIDING OFFICER (Mr. LADD in the chair). This completes the committee amendments as printed in the bill.

Mr. WARREN. I ask for the adoption of the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT SECRETARY. On page 2, after line 5, insert the following paragraph:

For an assistant clerk to the Committee on Appropriations at the rate of \$3,000 per annum, from January 1, 1923, to June 30, 1924, both dates inclusive, \$4,500.

The amendment was agreed to.

Mr. WARREN. I send to the desk another amendment which I ask may be adopted.

The PRESIDING OFFICER. The amendment will be read.

The ASSISTANT SECRETARY. On page 19, after line 4, insert the following separate paragraph:

For payment of claims for damages to and loss of private property incident to the training, practice, operation, or maintenance of the Army that have accrued, \$85,692.17: *Provided*, That settlement of such claims shall have been made by the General Accounting Office upon the approval and recommendation of the Secretary of War where the amount of damages has been ascertained by the War Department and payment thereof will be accepted by the owners of the property in full satisfaction of such damages: *Provided further*, That this amount shall be available exclusively for the payment of claims in excess of \$500 which have been approved and recommended by the Secretary of War.

The amendment was agreed to.

Mr. WARREN. I offer the amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be read.

The ASSISTANT SECRETARY. On page 15, after line 2, insert the following paragraph:

For Pauline G. Swalm, widow of Albert W. Swalm, late consul to Hamilton, Bermuda, one year's salary of her deceased husband, who died while at his post of duty from illness incurred in the Consular Service, \$4,500.

The amendment was agreed to.

Mr. WARREN. Mr. President, the amendment which I now intend to offer does not involve an appropriation but merely the correction of an account. I offer the amendment, knowing that it constitutes legislation, but I ask unanimous consent that it may be inserted in the bill because the account has been left in an unsettled condition, and the department desires that the legislation may be enacted.

The PRESIDING OFFICER. The amendment proposed by the Senator from Wyoming will be stated.

The ASSISTANT SECRETARY. On page 15, to follow the first amendment after line 2, it is proposed to insert:

CONTINGENT EXPENSES, FOREIGN MISSIONS.

The general accounting officers are authorized to credit Boaz W. Long, in the settlement of his accounts as American minister to Salvador, with the sum of \$2,819.50 or such amount as they may find due on account of furniture and equipment purchased from him in Salvador for the legation building erected by the United States Government at San Salvador, for which an account in the above-mentioned sum has been approved by the Department of State under "Contingent expenses, foreign missions, 1920."

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Wyoming.

The amendment was agreed to.

Mr. WARREN. I have, as a Senator, an amendment to offer which involves legislation but is in the direction of economy and efficiency. I send the amendment to the desk and ask unanimous consent for its consideration and for its adoption.

The PRESIDING OFFICER. The amendment proposed by the Senator from Wyoming will be stated.

The ASSISTANT SECRETARY. On page 15, after the second amendment after line 2, it is proposed to insert:

The compensation of an ambassador to Cuba when hereafter appointed shall be in the sum of \$17,500 per annum, and the salary appropriated for the fiscal years 1923 and 1924 for an envoy extraordinary and minister plenipotentiary to Cuba is hereby made available for the salary of an ambassador, and there is hereby appropriated for that purpose for the fiscal year 1924 the additional sum of \$5,500: *Provided*, That the restrictions contained in section 1223, Revised Statutes, shall not apply in filling the existing vacancy at Habana, Cuba: *And provided further*, That the restrictions contained in the annual appropriation acts for the State and Justice Departments, fiscal years 1923 and 1924, pertaining to salaries of ambassadors and ministers, shall not apply in filling the vacancy at Habana, Cuba.

The PRESIDING OFFICER. The question is on the adoption of the amendment proposed by the Senator from Wyoming.

The amendment was agreed to.

Mr. WARREN. The amendment just adopted is the last one I desire to propose. The bill is now with the Senate, so far as the committee is concerned.

The PRESIDING OFFICER. The bill is before the Senate as in Committee of the Whole and open to amendment. If there be no further amendment, the bill will be reported to the Senate.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

CALL OF THE ROLL.

Mr. WARREN. Mr. President, I suggest the absence of a quorum in order that Senators who wish to be present when the calendar is considered may come into the Chamber.

The PRESIDING OFFICER. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Bayard	George	La Follette	Shields
Borah	Gerry	McCormick	Simmons
Brandagee	Glass	McCumber	Smith
Caldier	Hale	McKellar	Spencer
Cameron	Harrell	McLean	Sterling
Capper	Harris	McNary	Sutherland
Colt	Heflin	Nelson	Townsend
Conzans	Johnson	New	Trammell
Culberson	Jones, N. Mex.	Norbeck	Wadsworth
Curtis	Jones, Wash.	Oddie	Walsh, Mont.
Dial	Kellogg	Phipps	Warren
Ernst	Kendrick	Reed, Pa.	Weller
Fernald	Keres	Robinson	Williams
Fletcher	Ladd	Sheppard	

The PRESIDING OFFICER. Fifty-five Senators having answered to their names, a quorum of the Senate is present.

THE CALENDAR.

Mr. JONES of Washington. Mr. President, I suggest that we proceed with the consideration of bills on the calendar.

The PRESIDING OFFICER. The calendar under Rule VIII is in order. The Secretary will state the first bill on the calendar.

SERVICE CLAIMS IN NAVY AND MARINE CORPS.

The bill (S. 1016) to amend an act entitled "An act to repeal section 3480 of the Revised Statutes of the United States was considered as in Committee of the Whole and was read, as follows:

Be it enacted, etc., That the act entitled "An act to repeal section 3480 of the Revised Statutes of the United States," approved July 6, 1914, be amended by adding after the word "Army" the words "Navy, and Marine Corps."

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER.

The bill (S. 491) to provide, without expenditure of Federal funds, the opportunities of the people to acquire rural homes, and for other purposes, was announced as next in order.

Mr. WADSWORTH. I ask that that bill may be passed over.

The PRESIDING OFFICER. Under objection, the bill will be passed over.

The bill (S. 7) to amend the act entitled "An act to regulate the business of loaning money on security of any kind by persons, firms, and corporations other than national banks, licensed bankers, trust companies, savings banks, building and loan associations, and real-estate brokers in the District of Columbia," approved February 4, 1913, was announced as next in order.

Mr. NEW. Mr. President, in the absence of the Senator who introduced the bill and the Senator who reported it from the committee, I suggest that the bill should go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 2228) to amend certain sections of the Judicial Code relating to the Court of Claims was announced as next in order.

Mr. NELSON. Mr. President, the Senator from Tennessee [Mr. SHIELDS] desires to offer an amendment to this bill, and he has it over at his office. I therefore ask that the bill be temporarily laid aside, and that it may be taken up afterwards, at the convenience of the Senator from Tennessee.

The PRESIDING OFFICER. Without objection, the bill will be temporarily passed over.

The bill (H. R. 8331) to amend the transportation act, 1920, and for other purposes, was announced as next in order.

Mr. WALSH of Montana. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

TRANSPORTATION OF DEPENDENTS OF ARMY FIELD CLERKS, ETC.

The joint resolution (S. J. Res. 41) authorizing transportation for dependents of Army field clerks and field clerks, Quartermaster Corps, was considered as in Committee of the Whole.

The PRESIDING OFFICER. This joint resolution has been previously read and considered. It is before the Senate as in Committee of the Whole and open to amendment.

The joint resolution was reported to the Senate without amendment.

Mr. FLETCHER. Mr. President, may I ask the Senator from New York if he feels that this measure is important now?

Mr. WADSWORTH. It has been pending on the calendar for a long time. It was reported unanimously by the Military Affairs Committee.

Mr. FLETCHER. I know that at one time it was considered important.

Mr. WADSWORTH. It puts the field clerks on the same basis as officers and enlisted men as to travel allowances.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

LEASE OF FLOATING DRY DOCK.

The bill (S. 2718) to provide for leasing of the floating dry dock at the naval station, New Orleans, La., was announced as next in order.

Mr. CALDER. I ask that that go over.

The PRESIDING OFFICER. The bill will be passed over.

RETIREMENT OF PUBLIC-SCHOOL TEACHERS.

The bill (S. 2589) to amend section 11 of the act entitled "An act for the retirement of public-school teachers in the District of Columbia," approved January 15, 1920, was considered as in Committee of the Whole and was read, as follows:

Be it enacted, etc., That section 11 of the act entitled "An act for the retirement of public-school teachers in the District of Columbia," approved January 15, 1920," be, and it hereby is, amended to read as follows:

"Sec. 11. That the provisions of this act shall apply to all teachers who were on the rolls of the public schools of the District of Columbia for the month of June, 1919, if otherwise eligible, and to any teachers who, having reached the age of 45, or who, having taught continuously for 15 years in the public schools of the District of Columbia, and by reason of accident or illness, not due to vicious habits, having become physically or mentally disabled and incapable of satisfactorily performing the duties of teacher, resigned from service or was placed upon an inactive list by the board of education on or before June 1, 1919, if otherwise eligible."

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER.

The bill (S. 67) for the relief of the heirs of Adam and Noah Brown was announced as next in order.

Mr. DIAL. Let that go over, Mr. President.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1539) for the relief of Watson B. Dickerman, administrator of the estate of Charles Backman, deceased, was announced as next in order.

Mr. DIAL. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

CAPT. DAVID M'D. SHEARER.

The bill (S. 1861) authorizing the Court of Claims to adjudicate the claim of Capt. David McD. Shearer for compensation for the adoption and use and acquisition by the United States Government of his patented inventions was considered as in Committee of the Whole and was read, as follows:

Be it enacted, etc., That the claim of Capt. David McD. Shearer for compensation for the adoption and use by the Government of the United States of certain inventions relating to reinforced concrete reventment and construction and laying of same, made by said David McD. Shearer, and for which letters patent of the United States Nos. 1173879, 1173880, and 1229152 were issued to him, be, and the same is hereby, referred to the Court of Claims, which court is hereby vested with jurisdiction in the premises, and whose duty it shall be to hear and determine, first, whether the said David McD. Shearer was the first and original inventor of the inventions described in said letters patent or any of them; and if said court shall find that he was such first and original inventor of any of the same, then to determine, second, what amount of compensation, if any, he is justly entitled to receive from the United States for the use of his said inventions, or any of them, either before or since the date of said letters patent, up to the time of adjudication, and for a full and entire transfer of said several patents to the United States; and in determining the amount of compensation, if any, for the use of said inventions and transfer of said patents, the court shall take into consideration, as bearing on the question of reducing or increasing such compensation if and so far as the facts may warrant, the facts if proved that while the said David McD. Shearer was engaged in perfecting the inventions he was in the service of the United States as a junior engineer superintendent in charge of willow-bank reventment construction under the Mississippi River Commission, and whether and, if at all, to what extent said inventions, or any of them, were discovered or developed during the working hours of his Government service, and to what extent his said inventions for protection of river channels and banks differ from the methods previously used in material, method of laying, permanency, and value, and whether and, if at all, to what extent the expense of making experiments, trials, and tests for the purpose of perfecting said inventions was paid by the United States, and if any such expense was incurred by the United States whether and, if at all, to what extent the United States received compensation for such expense.

Either party may appeal to the Supreme Court of the United States upon any such question where appeals now lie in other cases arising during the progress of the hearing of said claim, and from any judgment in said case at any time within 90 days after the rendition thereof; and any judgment rendered in favor of the claimant shall be paid in the same manner as other judgments of the said Court of Claims; and the payment of such judgment shall vest the full and absolute right to said patents, and each of them, in the United States.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS AND JOINT RESOLUTION PASSED OVER.

The joint resolution (S. J. Res. 133) proposing an amendment to the Constitution of the United States was announced as next in order.

Mr. JONES of Washington. Mr. President, this joint resolution and the bill that follows it on the calendar could not be disposed of under this rule, so I ask that they may be passed over.

The PRESIDING OFFICER. The joint resolution will be passed over.

The bill (S. 14) providing for the election of a Delegate to the House of Representatives from the District of Columbia, and for other purposes, was announced as next in order.

The PRESIDING OFFICER. At the request of the Senator from Washington, this bill will be passed over.

The bill (S. 2992) authorizing the Secretary of War to furnish certain information for historical purposes to the adjutant generals of the several States and the District of Columbia, and making an appropriation therefor, was announced as next in order.

The PRESIDING OFFICER. This bill has passed the Senate; and a motion to reconsider, entered by the Senator from Iowa [Mr. CUMMINS], is now pending.

Mr. JONES of Washington. As the Senator from Iowa is not here, I suggest that the bill go over without prejudice until the Senator from Iowa comes in. Possibly it may then be taken up.

The PRESIDING OFFICER. The bill will be passed over. The bill (S. 3254) to encourage the development of the agricultural resources of the United States through Federal and State cooperation, giving preference in the matter of employment and the establishment of rural homes to those who have served with the military and naval forces of the United States, was announced as next in order.

Mr. FLETCHER. I think that bill will take more time than we will have in which to consider it.

Mr. MCCUMBER. I ask that it may go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1343) granting relief to persons who served in the Military Telegraph Corps of the Army during the Civil War was announced as next in order.

Mr. DIAL. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1345) to amend an act entitled "Interstate Commerce Act," approved February 28, 1920, was announced as next in order.

Mr. NEW. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 1346) to amend an act entitled "An act to regulate commerce," approved February 4, 1887, and all acts amendatory thereof, including the safety appliance acts and the act providing for the valuation of the several classes of property of carriers subject to the Interstate Commerce Commission, approved March 1, 1913, was announced as next in order.

Mr. NEW. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

AMENDMENT OF BANKRUPTCY ACT.

The bill (S. 2921) to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, and acts amendatory thereof and supplementary thereto, was announced as next in order.

Mr. JONES of Washington. Mr. President, an amendment has been proposed to this bill by the Senator from Pennsylvania relating to one feature of the bill in which some people in my State are interested. I have sent a copy of the amendment to them, asking them if it is satisfactory, and I have not yet heard from them.

Mr. WALSH of Montana. Mr. President, I have on my desk a copy of the amendment offered by the Senator from Pennsylvania, and I shall ask that it be adopted, so far as I am concerned.

Mr. JONES of Washington. I will say to the Senator that I have sent this amendment to the parties who are interested, to get their views as to whether or not it meets the ideas that they have, and I think I shall hear from them in a very few days. If it is satisfactory, I shall have no objection whatever to the bill; but I shall have to ask the Senator to allow the bill to go over until I can hear from them.

The PRESIDING OFFICER. The bill will be passed over.

COOPERATIVE ORGANIZATIONS.

The joint resolution (S. J. Res. 188) creating a committee to investigate existing conditions of industry and commerce in the United States for the purpose of recommending to Congress legislation defining the rights and limitations of cooperative organizations as distinguished from illicit combinations in restraint of trade was announced as next in order.

Mr. FLETCHER and Mr. CALDER. Let that go over.

The PRESIDING OFFICER. The joint resolution will be passed over.

PAIUTE INDIAN LANDS IN NEVADA.

The bill (S. 3384) authorizing an appropriation to meet proportionate expenses of providing a drainage system for Paiute Indian lands in the State of Nevada within the Newlands reclamation project of the Reclamation Service was announced as next in order, and the Senate resumed its consideration.

The PRESIDING OFFICER. This bill has been heretofore considered as in Committee of the Whole, and reported to the Senate with certain amendments. The question is on concurring in the amendments made as in Committee of the Whole.

The amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

BILLS, ETC., PASSED OVER.

The bill (S. 171) to extend the provisions of the act of May 11, 1912, was announced as next in order.

Mr. WADSWORTH. Let the bill be read. I would like to have an explanation of it.

The bill was read.

Mr. DIAL and Mr. WADSWORTH. Let the bill go over.

The PRESIDING OFFICER. The bill will be passed over on objection.

The joint resolution (S. J. Res. 227) rejecting bids for the acquisition of Muscle Shoals was announced as next in order.

Mr. WADSWORTH. Let that go over.

The PRESIDING OFFICER. The joint resolution will be passed over.

The bill (H. R. 13) to assure to persons within the jurisdiction of every State the equal protection of the laws, and to punish the crime of lynching, was announced as next in order.

Mr. WADSWORTH. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

TRADING IN COTTON FUTURES.

The bill (S. 3146) to amend section 5 of the United States cotton futures act was announced as next in order.

Mr. WADSWORTH. Mr. President, I think it would be quite impossible to dispose of that bill to-day. I do not rise in hostility to it, but I think the Senator from South Carolina [Mr. DIAL] will admit that it can not be disposed of to-day on the call of the calendar. There is an adverse report on the bill from the Committee on Agriculture and Forestry.

Mr. DIAL. The adverse report does not amount to much, and I would like to wipe it out; it is based on a false premise. However, the consideration of the bill may take a little time, and I am willing that it should be passed over to-day, but I give notice that I shall make a motion very soon to take it up, and I hope to get sufficient help to have the bill taken up in place of some other bill and passed.

Mr. WADSWORTH. Let the bill go over.

The PRESIDING OFFICER. The bill will be passed over.

BILLS PASSED OVER.

The bill (S. 2388) for the relief of Augusta Reiter was announced as next in order.

Mr. NEW. In the absence of the junior Senator from California [Mr. SHORTRIDGE], I ask that that bill may go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 3858) to define butter, and to provide a standard therefor, was announced as next in order.

Mr. WADSWORTH. Let the bill be read.

The Assistant Secretary read the bill.

Mr. McCUMBER. Let the bill go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (H. R. 211) to extend the provisions of the pension act of May 11, 1912, and May 1, 1920, to the officers and enlisted men of all State militia and other State organizations that rendered service to the Union cause during the Civil War for a period of 90 days or more, and providing pensions for their widows, minor children, and dependent parents, and for other purposes, was announced as next in order.

Mr. DIAL. Let that go over.

The PRESIDING OFFICER. The bill will be passed over.

The bill (S. 3995) to authorize the Secretary of Agriculture to exterminate bean beetles in the State of New Mexico, and

authorizing expenditures therefor, was announced as next in order.

Mr. WADSWORTH. In the absence of the Senator from Oregon [Mr. McNARY], who undoubtedly has all the information about bean beetles, I think the bill had better go over.

The PRESIDING OFFICER. The bill will be passed over.

NEW JERSEY SHIPBUILDING & DREDGING CO.

The bill (S. 3515) for the relief of the New Jersey Shipbuilding & Dredging Co., of Bayonne, N. J., was considered as in Committee of the Whole.

Mr. DIAL. Mr. President, there is a very large amount involved in this bill, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Bayard	Fletcher	Ladd	Shields
Borah	France	Lenroot	Simmons
Brandeggee	Frelinghuysen	McCumber	Smith
Broussard	George	McKellar	Spencer
Calder	Gerry	McLean	Stanley
Cameron	Glass	McNary	Sterling
Capper	Harrell	Nelson	Sutherland
Caraway	Harris	New	Townsend
Colt	Heflin	Norbeck	Trammell
Couzens	Johnson	Oddie	Underwood
Cummins	Jones, N. Mex.	Overman	Wadsworth
Curtis	Jones, Wash.	Pepper	Walsh, Mont.
Dial	Kellogg	Ransdell	Warren
Ernst	Kendrick	Reed, Pa.	Weller
Fernald	Keyes	Sheppard	

The PRESIDING OFFICER. Fifty-nine Senators having answered to their names, a quorum is present.

Mr. CALDER. Mr. President, the bill which has just been reached on the calendar is for the benefit of the New Jersey Shipbuilding & Dredging Co. That company had a contract with the War Department for the removal of some rock at Hell Gate, East River. It appears that one day a naval vessel leaving the Brooklyn Navy Yard for New London, passing through the East River at Hell Gate, collided with this dredge, and the dredge sank within 20 minutes and, as the report indicates, was completely destroyed.

The vessel having been destroyed through no fault of his, the contractor very properly filed a claim with the Navy Department for the value of his dredge and for what the dredge would have earned. After the most careful inquiry the Navy Department reported to the Committee on Claims that there was no doubt of the value of the vessel and the fault of the department, but it raised a question about the profits of this company while the vessel was out of commission. The Committee on Claims recommends that the bill be reduced by something like fifty-odd thousand dollars, which is the profit the ship would have earned, and recommends unanimously that the Government pay \$52,278.28, the value of the vessel at the time she was destroyed. There is not the slightest question about the Navy Department being responsible, and the board of inquiry of the Navy Department so certifies.

Mr. BRANDEGEE. Mr. President, was the dredge at anchor at the time of the collision?

Mr. CALDER. Yes; it was moored there, engaged in dredging for the Government.

Mr. DIAL. I would like to ask the Senator what was done about the insurance. I see the vessel was insured for \$100,000.

Mr. CALDER. I have no doubt the insurance would be paid over to the Government.

Mr. DIAL. I notice from the report that the boat was 30 years old. Since the Government has so many vessels that we can not sell at any appreciable price at all, I thought perhaps this was a pretty good sum to pay for a boat 30 years ago. According to our Shipping Board we can hardly dispose of ships at all now, and it occurred to me that possibly if the Government was liable at all it could give this concern a boat that would be younger in place of the one that was lost.

Indeed, Mr. President, I confess that I am confused somewhat as to the course the Senate ought to take about many claims. It seems to me to be a very loose way to settle claims to come in here on some report or other, necessarily not very thorough. We ought to refer these matters to some court, and let the people go into court and establish their rights. That is what we have the courts for.

The PRESIDING OFFICER. The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, which will be stated:

The READING CLERK. A bill (H. R. 12817) to amend and supplement the merchant marine act, 1920, and for other purposes.

Mr. JONES of Washington. There are several Senators who would like to reach certain bills on the calendar; and as they gave way for the second deficiency appropriation bill for an hour or such a matter, I am perfectly willing to lay aside the unfinished business for at least an hour that we may proceed with the calendar. I ask unanimous consent that the unfinished business may be temporarily laid aside.

The PRESIDING OFFICER. Without objection, the unfinished business will be temporarily laid aside. The Senator from South Carolina will proceed.

Mr. DIAL. Mr. President, it seems to me we ought to decide on some definite line of action, some businesslike line of action. I confess that if the Government was wrong and injured some one it ought to compensate the party; but it is a very loose way to come in here, as I said, by sort of an ex parte statement, and attempt to ascertain the damages in that way. I certainly hope we will change the method, because it is unpleasant to oppose such claims when they come before the Senate in this way. It does seem to me this is a very excessive amount for a boat as old as the one involved. Of course, I am not an expert along that line.

Mr. CALDER. If the Senator will pardon me, the report indicates that two inspections were conducted by the Navy Department, and one of these experts reported the vessel worth \$150,000—

Mr. DIAL. Yes; and the other that it was worth \$250,000.

Mr. CALDER. We are taking the smallest amount. If the Senator will note the report, he will see that it says the Navy Department assumes entire responsibility for the accident. There is no doubt about that.

Mr. DIAL. Then somebody in the Navy Department ought to be kicked out if they are going about sinking people's ships this way. That verifies the very point I am making. There is a difference of opinion as to the value of the boat. One expert places a value of \$150,000 on the boat and another a value of \$250,000.

Mr. CALDER. We took the lowest estimate.

Mr. DIAL. The lowest estimate might be several times too large.

Mr. CALDER. The owner of the boat submitted affidavits showing its value. Surely he is not responsible and ought to have his boat back or his money.

Mr. DIAL. I think we ought to give him a new boat, or a practically new boat.

Mr. CALDER. A boat of this character is specially built for the purpose. We can not take any kind of boat and give it to him in place of the one he lost.

Mr. DIAL. Oh, no; and I would not want to do that. I want to do my duty to the taxpayers of the country. I think we should investigate all these claims very carefully. I have had opportunity merely to scan the report, and I notice that one of the experts fixes the value of the boat in the sum of \$150,000 and another in the sum of \$250,000. I confess that I am not very well prepared to pass on the value of the boat under circumstances of that kind. The matter ought to be referred now to some court.

Mr. SMITH. Mr. President, may I ask the Senator from New York what difference in time elapsed between the estimate of \$150,000 and the estimate of \$250,000?

Mr. CALDER. The report of the Secretary of the Navy to the Committee on Claims states:

Two inspectors representing the engineers' office in New York, who are constantly employed on the work, fixed the value of the drill boat, one at \$150,000 and the other at \$250,000. The engineer in charge of the work expressed the opinion that the fair value of the drill boat is \$150,000.

That is the value which the Committee on Claims put on it.

Mr. NEW. Mr. President, I think I may be able to clear up a little doubt as to the justice of the claim involved in the bill. The matter was referred to me as a subcommittee of the Committee on Claims and I made investigation of it and made the report. The facts were that the boat which was destroyed was at a certain point at Hell Gate doing some work under contract for the Government. It was run into by a Government boat and sunk, totally destroyed, while it was at anchor. The whole matter was taken up by the Navy Department when claim was made by the owners for compensation for their losses. It was investigated by the Navy Department. Their engineers were asked to arrive at the value of the boat, which they did. I have forgotten just what the amount was that they fixed, but something over \$200,000. That amount they fixed as the value of the boat.

That valuation corresponded with the valuation that could be fairly arrived at by the cost to the owners of the boat. The Navy Department after a thorough investigation decided that

the navigating officer of the United States ship *Lykens* was wholly at fault, that the accident was due entirely to his delinquency, and that the owners were entitled to compensation. They fixed the return to the company at \$205,000, I think. The figures are not exactly clear in my mind at this moment. The \$205,000 included an item of something over \$50,000 for demurrage. That was the amount, in other words, that the boat would have earned on the contract if it had not been destroyed. In making the report I struck out the item of demurrage and reported the bill for the amount of actual damages sustained as found by the Navy board and as shown by the cost figures submitted by the company owning the boat. That is the whole story.

Mr. McCUMBER. Mr. President, can the Senator explain why, where there is such a difference of opinion as to the value of the boat, the matter is not submitted to the Court of Claims for investigation and finding rather than to come here with a direct appropriation of the amount of damages to be determined according to the judgment of the several Senators who may be connected with the matter?

Mr. NEW. That is a matter for the Senate to determine.

Mr. McCUMBER. I appreciate that it is a matter for the Senate to determine, but where we have two estimates from a department, even admitting that the damages resulted from the acts of Government officials, why should not the question, as has been done in the past in nearly every case, be referred to the Court of Claims for findings of fact in the case and the amount of loss involved?

Mr. CALDER. If the Senator will permit me, it is a fact that there is a difference of opinion between the experts, but the Navy Department recommended to the Claims Committee the amount fixed by the lowest estimate, and that is recommended to the Senate. The Senator from Indiana has pointed out that the committee cut out of the bill all charges for profits on the part of the vessel during the time she would have been engaged in working.

I will say to the Senator from North Dakota that it has been the usual practice of the Senate to pass such measures when the case seemed perfectly clear. Such cases have only been referred to the Court of Claims when there was some doubt in the mind of the Senate as to whether or not the claim was a fair one.

Mr. McCUMBER. Let me ask the Senator a further question. Does he desire us to understand that the matter of damages is perfectly clear? Does the department admit that its one expert giving the lowest value was correct, while the other expert giving twice the value was incorrect?

Mr. CALDER. We settle our private affairs on exactly the same basis. We submit such things in business to men who are supposed to understand and then we adjust the differences, but in this case the lower amount is substantiated by the cost sheets submitted by the owner of the vessel and by affidavits accompanying the same, proving the value of the ship from his standpoint.

Mr. McCUMBER. I am not going to make objection, but I desire to suggest again that I think cases of this kind should be submitted to a court to find the facts rather than to take the mere statement of a department as to what the lowest sum may be.

Mr. NEW. I am not objecting to the criticism of the Senator from North Dakota. I attempted to do my duty as I saw it when the matter was referred to me as a subcommittee of the Committee on Claims. I went through the matter very carefully and reached the conclusion in my own mind that the claim of the company was absolutely just, and I based that on the official findings of the Navy Department as much as upon anything else, which, as the Senator from New York said, was sustained by the cost sheets that were submitted by the owners of the vessel. There is no question in the world that the boat was destroyed as the result of negligence or incompetency of somebody operating a vessel belonging to the United States Government. That is the whole question.

Mr. HARRIS. Mr. President, may I ask the Senator from Indiana a question? As I understand it, the Navy Department, after having two experts investigate and give their judgment as to the value of the boat, recommended that Congress pay the lowest estimate made. Then the Committee on Claims, of which the Senator from Indiana [Mr. New] is a member, investigated and unanimously recommended the payment of the claim.

Mr. NEW. The only further comment I care to make as to the suggestion made by the Senator from North Dakota [Mr. McCUMBER] is that I feel that since the facts seemed to me to be so clearly established and the loss was inflicted by the negligence of the commander of the Government boat, it was hardly

fair to expect the company to go without its money for the very long time that would undoubtedly be required in adjusting the matter through the Court of Claims.

Mr. SPENCER. Mr. President, I want to say to the Senator from North Dakota that there are only two parties to a claim of this kind. One is the party committing the injury, the Government of the United States in this case, and the other the party who suffered the injury. It has been usual in connection with these claims, where the aggressive party admits carelessness and liability and on investigation admits the amount of the liability, never to send the cases to the Court of Claims but to send to the Court of Claims only those cases where there is a doubt as to the liability or where there is a doubt as to the amount of the compensation.

Mr. NELSON. Mr. President—

Mr. SPENCER. If I may finish this sentence, I shall then yield to the Senator from Minnesota.

In this case there is no doubt about the liability. While the boat of the company was at anchor early in the morning a Government steamer came crashing into it and sunk it. There is no doubt about the liability, so far as the Government is concerned, because a double inspection was made and the Committee on Claims adopted the lowest amount which the inspectors found. Then they eliminated from that amount an item of \$50,000, which had to do with possible profits. It strikes me that it is not fair to a claimant who has a perfectly just claim to say to him, "Yes; the one who did the injury admits the liability; admits that the money is due; the Government admits it; but we will send you to the Court of Claims"—to decide what? To decide a liability that is admitted and to fix an amount about which there is no question.

Mr. NELSON. Mr. President, I think the Senator from Missouri [Mr. SPENCER] and the Senator from North Dakota [Mr. McCUMBER] are misinformed in one respect in reference to this matter. Actions of this kind can not go to the Court of Claims, for they are actions sounding in tort. Only actions arising out of contracts or judgments can be referred to the Court of Claims. There are only two ways in which relief may be obtained in such a case as this; one is by authorizing a suit to be brought either in the Court of Claims or in a court of admiralty. Since I have been a Member of the Senate we have passed a number of bills authorizing parties to go into a court of admiralty in order to have their claims adjudicated. The other method is to afford relief by a direct appropriation, as is proposed in this case. The Court of Claims, however, without legislation, would have no jurisdiction in this case, because, as I have stated, it is an action sounding in tort.

Mr. BRANDEGEE. Let me ask the Senator from Indiana a question. Did the testimony in this case show that there was any insurance on the boat? What was the fact in reference to that matter? Has any insurance been collected?

Mr. NEW. No; my recollection is that there was no insurance. It has been some time since I prepared the report, but I do not think I am in error as to that.

Mr. BRANDEGEE. In view of the statement which was made by the Senator from South Carolina [Mr. DIAL], I gathered a different impression.

Mr. DIAL. Will the Senator from Connecticut permit me to interrupt him?

Mr. BRANDEGEE. I yield to the Senator.

Mr. DIAL. On page 3 of the report on this bill it is stated:

The record shows that she was built about 30 years ago, was necessarily kept in first-class condition by the character of the work in which she was engaged, and was insured for the sum of \$100,000.

Mr. BRANDEGEE. In view of that statement, if the record so shows, I, with some hesitation and with much deference, wish to submit to the Senator from Indiana [Mr. NEW] if he does not think that he could prepare and propose while some other bill shall be considered an amendment which would provide that any sums which have been collected or which may be collected upon any insurance carried upon the vessel shall be deducted from the amount to be paid by the Government? Certainly the owner of the vessel does not wish to be paid twice over; all he is entitled to is reimbursement for the value of his vessel.

Mr. NEW. I certainly do not desire that he shall be paid twice. I desire to remind the Senator from Connecticut, however, that this is not my bill, but is the bill of the Senator from New York [Mr. CALDER].

Mr. BRANDEGEE. I understand that, but the Senator from Indiana said that he was the subcommittee which considered the bill.

Mr. NEW. I was; but, so far as I am concerned, I should think that the kind of amendment suggested by the Senator

from Connecticut would be entirely proper and I should be prepared to accept it.

Mr. CALDER. Such an amendment would be perfectly agreeable to me.

Mr. BRANDEGEE. I ask that the bill may be passed over temporarily.

Mr. DIAL. I desire to move to amend the bill by referring the claim to some court of proper jurisdiction. Perhaps my amendment is in the nature of a substitute. I move to amend the bill by striking out all after the enacting clause and inserting:

That the New Jersey Shipbuilding & Dredging Co. of Bayonne, N. J., is hereby authorized to bring suit in any court of competent jurisdiction to reimburse them for the loss sustained as a result of the total destruction of drill boat No. 3 through collision with the U. S. S. *Lykens* in Hell Gate, off Halletts Point, New York Harbor, on September 1, 1921.

I wish to call attention to the statement on page 3 of the report that—

Two inspectors representing the engineers' office in New York, who are constantly employed on the work, fixed the value of the drill boat—one at \$150,000 and the other at \$250,000. The engineer in charge of the work expresses the opinion that the fair value of the drill boat is \$150,000.

It appears, therefore, that one engineer employed on the work states that \$150,000 is a fair valuation of the boat, while another states that it was worth \$250,000. There was no opportunity for cross-examining them, nor was there any test of the accuracy of the statements; but \$150,000 is the maximum amount which is fixed by the representative of the owners of the boat. In view of that fact and in view of the fact also that the boat was insured, I think the matter ought to be referred to a court in order to allow justice to be done.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from South Carolina.

Mr. CALDER. Just a word in reference to that. If the amendment proposed by the Senator from South Carolina shall prevail, and the matter is referred to a court, the probability is that the claimant will receive all of the money which he insists is due him for the loss of the boat and also for the loss of profits.

Mr. DIAL. If he is entitled to it, he ought to recover it.

Mr. CALDER. And in the end the Government will probably be out some \$50,000 to \$75,000.

Mr. DIAL. I have faith in our courts, and if the owner is entitled to the sum claimed he ought to recover it.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from South Carolina. [Putting the question.] The Chair is in doubt.

Mr. DIAL. I ask for a division, Mr. President.

The question being put, on a division the amendment was rejected.

The PRESIDING OFFICER. Is there further amendment as in Committee of the Whole?

Mr. DIAL. On page 1, line 6, I move to strike out "\$205,028.28" and to insert in lieu thereof "\$100,000."

Mr. CALDER. I hope that motion will not prevail. The Committee on Claims has recommended the payment of \$152,000 in this case, which is the amount of the cost of the vessel.

The PRESIDING OFFICER. The amendment of the committee having been agreed to December 5 as in Committee of the Whole, the amendment proposed by the Senator from South Carolina will have to be withheld until the bill reaches the Senate or the vote whereby the committee amendment was agreed to will have to be reconsidered. Are there further amendments as in Committee of the Whole? If not, the bill will be reported to the Senate as amended.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The bill is in the Senate and now open to amendment. The amendment proposed by the Senator from South Carolina is in order.

Mr. DIAL. I renew my amendment.

The PRESIDING OFFICER. The amendment proposed by the Senator from South Carolina will be stated.

The ASSISTANT SECRETARY. On page 1, at the beginning of line 6, it is proposed to strike out "\$205,028.28" and in lieu thereof to insert "\$100,000."

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from South Carolina.

Mr. CALDER. As I understand, the Senator from South Carolina moves that the Government allow \$100,000 for the damages to this vessel. I wish again to inform the Senate that the Navy Department has recommended the payment of \$205,000, which includes the demurrage, while the Committee on Claims of the Senate recommends the payment of \$152,000, which would be the actual replacement cost. If we are going to allow anything, we ought to allow that; otherwise it would

be better to defeat the bill. It would be very unjust to a man who is doing work for the Government and has his vessel sunk through no fault of his own to take any such action as is proposed by the amendment now offered by the Senator from South Carolina.

The PRESIDING OFFICER. The question is on the amendment proposed by the Senator from South Carolina.

The amendment was rejected.

The amendments made as in Committee of the Whole were concurred in.

Mr. CALDER. At the end of the bill I offer the amendment which was suggested by the Senator from Connecticut [Mr. BRANDEGEE].

The PRESIDING OFFICER. The amendment will be stated.

The READING CLERK. At the end of the bill it is proposed to add the following proviso:

Provided, That there shall be deducted from the amount herein set out the amount, if any, received by the claimant from insurance on said boat.

Mr. BRANDEGEE. Mr. President, instead of the words "herein set out," would the Senator object to saying "the amount hereby appropriated"?

Mr. CALDER. I will modify the amendment by changing the words to "the amount hereby appropriated."

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from New York.

Mr. WALSH of Montana. Let me inquire of the Senator from Connecticut whether there should not be a further provision subrogating the Government to any further claims arising under the insurance policy?

Mr. BRANDEGEE. Does the Senator mean under any further insurance or other insurance?

Mr. WALSH of Montana. Yes.

Mr. BRANDEGEE. I think that would be a proper precaution. I had not thought of that.

Mr. WALSH of Montana. It is possible, of course, that payments have been made on the \$100,000 of insurance, but that not all of the amount has been paid, so that there may be something still due upon that policy.

Mr. BRANDEGEE. Perhaps I did not fully gather the force of the amendment. I thought it provided for any sums that had been or might be received under the insurance policy.

Mr. CALDER. I thought the language made it clear that it covered that amount.

Mr. BRANDEGEE. I ask that the Secretary again state the amendment.

The PRESIDING OFFICER. The Secretary will again state the amendment.

The READING CLERK. At the end of the bill it is proposed to add the following:

Provided, That there shall be deducted from the amount hereby appropriated the amount, if any, received by the claimant from insurance on said boat.

Mr. BRANDEGEE. I do not see how we could deduct from the amount appropriated moneys that might be received after payment under the appropriation had been made.

Mr. WALSH of Montana. The point I make is as to subrogating the Government to the right under the insurance policy to any moneys not yet collected.

Mr. BRANDEGEE. Will the Senator indicate in what language such a provision should be couched?

Mr. WALSH of Montana. I should add a further proviso that the claimant shall assign to the Government of the United States any right he may have to any unpaid insurance upon the boat.

Mr. BRANDEGEE. That would cover it.

Mr. NEW. That would safeguard it.

The PRESIDING OFFICER. The amendment to the amendment will be stated.

The READING CLERK. It is proposed to amend the amendment submitted by the Senator from New York by adding a further proviso, as follows:

Provided further, That the claimant shall assign to the United States any right he may have to any unpaid insurance on the boat.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Montana to the amendment offered by the Senator from New York.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. OVERMAN subsequently said: Mr. President, I move to reconsider the vote by which Order of Business No. 914, being the

bill (S. 3515) for the relief of the New Jersey Shipbuilding & Dredging Co., of Bayonne, N. J., was passed. I make the motion in behalf of the Senator from Utah [Mr. Smoot], who requested me to do so.

The VICE PRESIDENT. The Senator from North Carolina moves to reconsider the vote by which the Senate bill 3515 was passed, and that motion will be duly entered.

THE COURT OF CLAIMS.

Mr. NELSON. Mr. President, I now ask that the Senate recur to Order of Business No. 271, being the bill (S. 2228) to amend certain sections of the Judicial Code relating to the Court of Claims.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. NELSON. Mr. President, that bill has been read at length.

The PRESIDING OFFICER. But the amendments reported by the committee have not as yet been agreed to.

Mr. NELSON. Mr. President, I will make a brief statement in regard to the bill. Its purpose is to afford the Court of Claims better machinery with which to transact its business. As an aftermath of the war, claims are pouring into the Court of Claims at a very rapid rate, and the court needs more help in order to assist in the conduct of its business. The testimony in that court is taken in the form of depositions before examiners, and then the cases are tried by the court. In order to enable the court to expedite the consideration of cases pending, it is necessary to grant authority to appoint more examiners to take testimony.

The other changes proposed by the bill are mainly verbal changes, except in one particular, namely, in the matter of appeals from the Court of Claims. Under existing law a decision can not be appealed by a private litigant unless the amount of the claim exceeds \$3,000, while the Government can institute an appeal in any case, no matter what may be the amount involved. This proposed amendment to the law gives both parties—the Government and the claimant—an equal right to appeal in cases involving \$3,000 or more, but it provides that the Government may by certiorari bring up cases for a less amount than \$3,000. The object of that is this: The Court of Claims frequently has what might be termed a group of cases where the decision of one case will govern in a lot of other cases of which the first case is typical, and this leaves to the Government the right in such cases, where the amount involved is less than \$3,000, to take them up by certiorari. Otherwise, the right of appeal is equal on both sides. Under existing law the Government only could appeal in claims as low as \$3,000. Now both parties can appeal, the Government and the claimant; and the Government, as I have said, can only take up by certiorari small cases involving less than \$3,000.

I do not care to go into any further discussion of the bill, because it does not change the main features of the law in any respect. It is simply to aid in the work of the court. No radical changes are made in the law. Some of the phraseology of the antiquated Court of Claims law is changed. For instance, we substitute the term "marshal" for "bailiff"; we strike out the words "chief clerk" and say "clerk"; and then a slight change is made in the term of court, so as to make it more precise and clear. A little change is made in the time of holding the Court of Claims. Otherwise, there are no changes.

In the bill that we reported we provided a salary of \$4,500 for the clerk of the court. The Appropriations Committee has since provided a salary of \$5,000, so that that is the law; and, accordingly, I ask to have the bill amended on page 2, line 12, section 140, by striking out "\$4,500" and inserting "\$5,000." That harmonizes with existing law.

The PRESIDING OFFICER. The question is on agreeing to the amendment proposed by the Senator from Minnesota.

The amendment was agreed to.

The PRESIDING OFFICER. The amendments reported by the committee will be stated.

The amendments were, on page 2, line 4, after the word "master," to strike out "or"; in the same line, after the word "commissioner," to insert "or examiner"; on page 3, line 6, after the word "solicitor," to strike out the comma and the words "the comptroller and the auditors"; on page 5, line 17, after the words "taking of," to strike out "proof" and insert "evidence"; on page 6, line 6, after the word "court," to strike out "along"; on the same page, line 9, after the word "hearing," to strike out "thereof" and insert "thereon"; on the same page, line 10, after the word "prescribe," to

The bill was reported to the Senate as amended.

Mr. SHIELDS. Mr. President, I move to strike out all of the proviso beginning on page 4 of the bill, line 25, in these words:

And provided further. That the jurisdiction of the Court of Claims shall not extend to or include any claim which is now barred by the provisions of any law of the United States.

Mr. President, it has been some time since I examined this matter, this bill having been reported to the Senate more than a year ago, and this amendment then prepared; and as it involves some former acts in regard to the claims which the amendment is intended to affect, I shall try to be accurate in my statement of that legislation.

The proviso that I move to strike out is in direct antagonism to another provision of the same section of the bill, and the two are irreconcilably in conflict. In fact, the proviso would utterly defeat the object of that section of the bill. A careful examination of section 7, a portion of which it is proposed to strike out, will show that the concluding provision of the section practically nullifies the earlier portion of the section. The concluding provision, which it is proposed to strike from the bill, is that reading as follows. I am going to reread it:

And provided further. That the jurisdiction of the Court of Claims shall not extend to or include any claim which is now barred by the provisions of any law of the United States.

It will be noted that the first part of section 151 of the Judicial Code, proposed to be here reenacted and which is left intact in this bill on this point, authorizes either House of Congress to refer to the Court of Claims any bill, except for a pension, providing payment of a claim, legal or equitable, or for a grant, gift, or bounty, the court upon such reference to proceed to report the facts; and yet the concluding provision would prohibit the court from taking any action on the matter so referred if the claim is one which is barred by any statute of the United States.

It would seem obvious that if a claimant has such a claim as is not barred by any law, then he will present his claim directly to the Court of Claims in the first instance and will waste no time by presenting his claim to Congress. If his claim is not barred by any law, then he already has a right to take it to the Court of Claims and needs no reference of the matter to the court by either House of Congress.

The claimant who must appeal to Congress for relief in the first instance is one whose claim, for some reason, has become barred by some law, either the statute of limitations or otherwise, or whose claim is not one which would constitute the basis of a legal demand upon the Government, although it may possess such attributes as would appeal to the sense of fairness of Congress as a moral claim upon the Government.

Section 151 of the Judicial Code which, as I have stated, is reenacted in this bill, with the proviso which I move to strike out, was substantially a reenactment of section 14 of what was called the Tucker Act (24 Stat. 505), the principal function of which was to empower either House of Congress to refer to the Court of Claims for judicial ascertainment of facts bills providing payment for any claim save a pension or for a gift, grant, or bounty.

Section 14 of the Tucker Act had been preceded by what was called the Bowman Act of March 3, 1883 (22 Stat. 485), but the Bowman Act had been found ineffective to relieve Congress of consideration of the facts of many claims, because section 3 of that act contained this same provision, namely:

Nor shall the said court have jurisdiction of any claim against the United States which is now barred by virtue of the provisions of any law of the United States.

It was to enlarge the jurisdiction of the Court of Claims to consider cases or bills sent to it by congressional reference that the Tucker Act—section 14—was later enacted, and which was carried into section 151 of the Judicial Code. By the Tucker Act and by section 151 of the Judicial Code Congress could relieve itself of the necessity for determining the facts of claims presented by bill.

Under the Bowman and Tucker Acts many claims were reported by the Court of Claims. By the omnibus claims act of 1899 numerous such claims were paid. In 1902 and in 1905 other appropriation acts were enacted for payment of such claims. Then ensued a period of 10 years during which no appropriations were made. Then came the claims act of March 4, 1915 (38 Stat. 962-996), covering only Civil War claims. The Senate also passed a companion bill for payment of similarly reported claims, other than war claims, but this was done on March 3, 1915, too late for that bill to receive consideration in the House of Representatives.

During consideration of the war claims bill in the Senate, late in the day, March 3, 1915, an amendment was offered on the floor, not being a committee amendment, which was adopted

practically without discussion or explanation, the chairman of the Committee on Claims accepting it in order that it might go to conference. The bill reached the House of Representatives only a few hours before the expiration of that Congress, however, and the bill never went to conference, so that said amendment was never really given serious consideration at any time.

That amendment is known as the Crawford amendment, having been offered by Senator Crawford. It reads as follows:

SEC. 5. That from and after the passage and approval of this act the jurisdiction of the Court of Claims shall not extend to or include any claim against the United States based upon or growing out of the destruction of any property or damage done to any property by the military or naval forces of the United States during the war for the suppression of the rebellion, nor to any claim for stores and supplies taken by or furnished to or for the use of the military or naval forces of the United States, nor to any claim for the value of any use and occupation of any real estate by the military or naval forces of the United States during said war, nor shall said Court of Claims have jurisdiction of any claim which is now barred by the provisions of any law of the United States.

Said Crawford amendment was considered by the Court of Claims in case of Chase, reported in Fiftieth Court of Claims, page 293, and it was held that said enactment not only had the effect of precluding the court from entertaining claims thereafter referred to it which were barred by any law, but also divested the court of its power to consider such claims already pending before it and awaiting decision or findings of fact.

In short, as the law now stands and as it would stand if this pending bill were enacted as reported, neither House of Congress can give the Court of Claims jurisdiction to entertain any claim already barred by any law, and, as above pointed out, that provision renders ineffective the earlier part of section 151 of the Judicial Code.

The concluding clause of section 7 of the bill, amendatory of section 151 of the Judicial Code, being inconsistent with the other provisions of the same section, should be omitted. If retained in the bill, then for all practical purposes section 151 of the Judicial Code might as well be repealed outright, instead of being permitted to stand with a proviso which renders it useless for any practical purpose.

Mr. President, I do not know whether or not I have clearly presented the inconsistency of this bill, and I want to read the two provisions which I say are inconsistent, the latter nullifying the first, so that it may more clearly appear. Section 7 of the bill is in these words:

SEC. 7. That section 151 of said Judicial Code is hereby amended to read as follows:

"SEC. 151. Whenever any bill, except for a pension, is pending in either House of Congress providing for the payment of a claim against the United States, legal or equitable, or for a grant, gift, or bounty to any person, the House in which such bill is pending may, for the investigation and determination of facts, refer the same to the Court of Claims, which shall proceed with the same in accordance with such rules as it may adopt and report to such House the facts in the case and the amount, where the same can be liquidated."

This is the part to which I call special attention—

including any facts bearing upon the question whether there has been delay or laches in presenting such claim or applying for such grant, gift, or bounty, and any facts bearing upon the question whether the bar of any statute of limitation should be removed or which shall be claimed to excuse the claimant for not having resorted to any established legal remedy, together with such conclusions as shall be sufficient to inform Congress of the nature and character of the demand—

And so forth. That clearly confers jurisdiction upon the Court of Claims of any and all claims which either House of Congress may refer to it for a finding of the facts, regardless of whether the claim is barred by the statute of limitations, directing the court to report such facts as might appeal to the conscience of Congress in allowing the claim, regardless of the fact that it may be barred by existing law. That question, upon the facts so reported, is one for the Congress then to pass upon.

Section 151 of the Judicial Code is now the law of the land. It is reenacted here. Yet, at the end of the section of this bill reenacting section 151 comes the proviso:

Provided further. That the jurisdiction of the Court of Claims shall not extend to or include any claim which is now barred by the provisions of any law of the United States—

Directly offsetting the previous direction to that court to report the facts in regard to such claims. I think the Senator in charge of the bill ought to agree to the striking out of this clause, as the necessity for that is so obvious, and really striking it out would not interfere with the purposes of the bill. I have gone at some length in debating the matter because it bears upon the next amendment which I shall offer. That is all I wish to say about this amendment.

Mr. NELSON. Mr. President, I object to the amendment. This section, in the first instance, refers to cases which may be referred to the Court of Claims by either House of Congress

for a finding of facts and report to Congress, without authorizing it to render judgment. My recollection is that that was one of the provisions of the Bowman Act. Beginning in line 10, page 4, after providing that the court shall make an investigation, the bill reads:

Provided, however, That if it shall appear to the satisfaction of the court upon the facts established that under existing laws or the provisions of this chapter the subject matter of the bill is such that it has jurisdiction to render judgment or decree thereon, it shall proceed to do so, giving to either party such further opportunity for hearing as in its judgment justice shall require, and it shall report its proceedings therein to the House of Congress by which the same was referred to said court.

The proviso I have just quoted gives the court jurisdiction to render a final judgment. The first part of the section relates simply to a reference of claims by either House of Congress to the Court of Claims for a finding of facts and its opinion thereon, but this goes a step further, and authorizes the court to render a final money judgment in those cases. Hence the necessity for the last proviso, to which the Senator referred, and which he criticizes. It is necessary to maintain that provision in the bill.

March 4, 1915, in an omnibus claims bill, by adopting the Crawford amendment, as it is called, Congress took away all the jurisdiction of the Court of Claims in a number of war-claims cases:

That from and after the passage and approval of this act the jurisdiction of the Court of Claims shall not extend to or include any claim against the United States based upon or growing out of the destruction of any property or damage done to any property by the military or naval forces of the United States during the war for the suppression of the rebellion; nor to any claim for stores or supplies taken by or furnished to or for the use of the military or naval forces of the United States, nor to any claim for the value of any use or occupation of any real estate by the military or naval forces of the United States during said war, nor shall said Court of Claims have jurisdiction of any claim which is now barred by the provisions of any law of the United States.

That is now a part of the law adopted in the Crawford amendment, and we are simply repeating it here:

Nor shall said Court of Claims have jurisdiction of any claim which is now barred by the provisions of any law of the United States.

We are carrying that language into the provision.

Mr. SHIELDS. I will say to the Senator that I am going to offer an amendment to repeal the Crawford amendment when the pending amendment is disposed of.

Mr. NELSON. By striking out the proviso to which the Senator refers the door would be opened wide. All we would have to do in that event would be to refer one of the claims for a finding of facts in the first instance.

Mr. SHIELDS. I am offering to repeal it only to the extent of cases which would then already have been referred to and were pending in the court. I would not offer an amendment to open the door wide. But in discussing the amendment which we have before us and which is now under consideration is it not a fact that the proviso is antagonistic to the law which I read in the first part of the act of 1915, giving the Court of Claims jurisdiction of cases that may be referred by Congress?

Mr. NELSON. That relates to cases which are not outlawed, but if the court has no right to render final judgment why should cases be referred there by either House of Congress?

Mr. SHIELDS. It would be for the purpose of finding the facts and allowing them to be reported to Congress, and then the Congress could determine whether in good conscience there were such equities involved as would justify payment of the claim.

Mr. NELSON. But the Senator overlooks the fact that when the case is referred to a court of this kind the court can go on and render final money judgment.

Mr. SHIELDS. Then the proviso ought to be limited so as not to be antagonistic to the previous part of it, withholding from the court jurisdiction to enter judgment, but leaving it with jurisdiction as provided in the first part to consider barred claims and report the facts to the Congress. I am willing that an amendment shall be made to that effect. I am not asking that the door be opened wide as to barred claims.

Mr. WALSH of Montana. Mr. President, I believe that the views of Senators with reference to this particular matter may be reconciled by a slight amendment of the proviso which the Senator from Tennessee proposes to eliminate. The main purpose of the bill is to authorize the reference by either House of Congress to the Court of Claims of any claim—that is, any claim, whether it is barred or not—to find the facts and report the same to the house in which it originated. But there is also incorporated the proviso to which the Senator from Minnesota refers, to the effect that if the claim is of such character as that the Court of Claims has jurisdiction to render judgment it may go on and render judgment.

Now no one can find any fault whatever with a statute which would authorize Congress to refer any claim whatever to the

Court of Claims to find the facts, whether it is barred or whether it is not barred, the facts to be reported back to Congress for further action by it. But in order to make the statute consistent, of course, with the Crawford Act, we must not give that court jurisdiction to render judgment in a case that is barred by the statute of limitations, because that is excluded by the Crawford Act, being a portion of the act of 1915. The matter would be made entirely clear, it seems to me, if we inserted after the word "claims," at the top of page 5, in line 1, the words "to render judgment as herein provided," so the proviso would read:

And provided further, That the jurisdiction of the Court of Claims to render judgment as herein provided shall not extend to or include any claim which is now barred by the provision of any law of the United States.

That would leave the matter in the shape that either House of Congress may refer to the Court of Claims any bill, whether it is for a claim barred or a claim not barred, to find the facts and report to the Congress, but the Court of Claims would not have jurisdiction to render judgment on any claim that was barred by the statute of limitations, whatever facts it may find otherwise. With that language incorporated, the statute would be consistent. Then, of course, if the view prevailed that we ought to repeal the Crawford amendment, as the Senator from Tennessee seems to think, of course we should also consider that; but the two would be made entirely consistent by the incorporation of the words which I suggest. Accordingly, it being parliamentary, I move to amend by inserting after the word "claims," on page 5, in line 1, the words "to render judgment as herein provided."

Mr. JONES of Washington. Mr. President—

Mr. SHIELDS. May I have just one moment on that point?

Mr. JONES of Washington. I merely want to suggest that it looks like the pending bill may take considerable time. I had hoped we might go through the calendar and dispose of bills to which there is no serious objection. It would not take very much time to dispose of them. That is one reason why I was perfectly willing to go on with the calendar. If the pending bill is going to take considerable further time, I would appeal to the Senator from Minnesota [Mr. NELSON] and ask him if he will not let it go over so that it can be taken up on some future day.

Mr. SHIELDS. Before any action is taken, I wish to say in regard to the suggestion made by the Senator from Montana [Mr. WALSH] that I had just suggested that course to the Senator in charge of the bill, the Senator from Minnesota [Mr. NELSON]. If he wishes to deprive the Court of Claims of jurisdiction of claims that were barred by the statute of limitations, the proviso should be so amended as to withhold jurisdiction—not jurisdiction to entertain the claim but simply to enter final judgment upon the reports made. That is what I think, under a proper construction of the whole act, it would mean.

But it is clearly doubtful because, broad as it is, it would repeal the clause in the beginning of section 151 of the act or section 7 of the pending bill, allowing a reference of claims which may for some cause be barred. I have an impression, as I see it now, that the amendment of the proviso as suggested by the Senator from Montana, and as I likewise suggested to the Senator from Minnesota, would relieve the difficulty.

Mr. FLETCHER. The Senator would have no objection to the amendment in any event?

Mr. SHIELDS. I would have no objection to the proviso if so amended that it merely applied to the court rendering final judgment.

Mr. FLETCHER. The Senator would favor the amendment proposed by the Senator from Montana?

Mr. SHIELDS. Yes; I had just suggested it to the Senator from Minnesota. I ask the Senator from Florida, who I understand is interested in the measure, if he does not think that would meet the equities and the demands of the situation?

Mr. FLETCHER. I am inclined to think so.

Mr. NELSON. I understood that the Senator from Montana had an amendment which he suggested.

Mr. WALSH of Montana. I have suggested to insert after the word "claims," in the first line on page 5, the words "to render judgment as herein provided," so that it shall read:

And provided further, That jurisdiction of the Court of Claims to render judgment as herein provided shall not extend to or include—

And so forth. We would then be entitled to refer any claim from either House of Congress to the Court of Claims, whether it be barred or not barred, to find the facts and report those facts to Congress; but it should have no jurisdiction under any circumstances to render judgment in the case of a claim that was barred by the statute.

Mr. SHIELDS. I think that would remove the antagonism which now exists to the bill.

Mr. NELSON. I do not believe we ought to change it. It is the existing law. It is a part of the Crawford amendment.

Mr. WALSH of Montana. If the Senator will pardon me for a moment, I think I can make the matter clear to him. The Crawford amendment did not deal with that section of the statute which provided for referring to the Court of Claims claims upon which a reference was to be made back to the House of Congress in which it originated. The Crawford amendment related only to those claims upon which the court had the power to render judgment. It is perfectly plain from the language of the act.

Mr. SHIELDS. I will call the attention of the Senator to another phase of the Crawford amendment. It was drawn up in a hurry on the floor and presented about 10 o'clock at night. It only applies to claims growing out of property taken during the Civil War, but it is being construed to apply to all claims against the Government, especially where they are barred by the statute of limitations.

The VICE PRESIDENT. The question is on the amendment proposed by the Senator from Montana [Mr. WALSH].

Mr. WALSH of Montana. Mr. President, the jurisdiction of the Court of Claims under which it is authorized to render a judgment is set forth in what is designated as section 1136 of the United States Compiled Statutes. Under that section there is not any reference back to Congress or any finding of fact or anything of that kind, but judgment is rendered against the United States.

In 1915 we passed what is known as an omnibus claims bill; that is to say, judgment having been rendered by the Court of Claims in a large number of claims—bear in mind, judgment having been rendered—appropriations were made to meet those judgments. As a part of that act the Crawford amendment was tacked on which provides—

That from and after the passage and approval of this act the jurisdiction of the Court of Claims shall not extend to or include any claim against the United States based upon or growing out of the destruction of any property or damage done to any property by the military or naval forces of the United States during the war for the suppression of the rebellion; nor to any claim for stores and supplies taken by or furnished to or for the use of the military or naval forces of the United States; nor to any claim for the value of any use and occupation of any real estate by the military or naval forces of the United States during said war; nor shall said Court of Claims have jurisdiction of any claim which is now barred by the provisions of any law of the United States.

That is designated as 1136a in the compilation to which I have referred, and it refers back to section 1136, which confers upon the Court of Claims jurisdiction to render judgment against the United States.

Mr. President, section 1142 of the Compiled Statutes refers to the reference of claims to the Court of Claims, not to rendering judgment upon them, but merely to find the facts and report back to Congress; and there is no limitation to that section. Touching the statute of limitations, it reads as follows:

Whenever any bill, except for a pension, is pending in either House of Congress providing for the payment of a claim against the United States, legal or equitable, or for a grant, gift, or bounty to any person—

which is exactly the language of the provision that is before us, section 1142 concludes with this proviso:

Provided, however, That if it shall appear to the satisfaction of the court upon the facts established that, under existing laws or the provisions of this chapter, the subject matter of the bill is such that it has jurisdiction to render judgment or decree thereon, it shall proceed to do so, giving to either party such further opportunity for hearing as in its judgment justice shall require, and it shall report its proceedings therein to the House of Congress by which the same was referred to said court.

I have no doubt that when it undertakes to do that it is controlled by the provisions of the preceding section, to the effect that it shall not have jurisdiction over claims barred by the statute of limitations. So we ought not to pass a statute here, as it seems to me, providing for the reference to the Court of Claims of any claim, barred or unbarred, to be reported back to the House submitting it, and then provide that the Court of Claims shall have no jurisdiction—which means no jurisdiction at all—in case of a claim barred by the statute of limitations, but that provision should be made to apply only to jurisdiction so far as it extends to the rendition of a judgment. If the claim is barred by the statute, the court will report that fact to Congress, and Congress will take whatever action in the premises may seem appropriate. So I think the language which I have suggested will make the pending bill entirely consistent with the purpose of Congress as heretofore expressed in the statutes to which I have referred.

Mr. FLETCHER. Mr. President, may I ask the Senator from Montana if all the court could do would be to ascertain

that the claim is barred by the statute or would the court find the facts? Would it have jurisdiction to find the facts or would it be estopped when it found the claim barred by the statute?

Mr. WALSH of Montana. It would have jurisdiction to find the facts by virtue of the first part of the section which authorizes Congress to refer any claim there, but it would be deprived of jurisdiction to render judgment in the matter of the claim.

Mr. SHIELDS. That was the existing law.

Mr. NELSON. As I understand, the Senator from Montana has an amendment to the last proviso.

Mr. WALSH of Montana. I have.

Mr. NELSON. Will the Senator be good enough to have it stated?

Mr. WALSH of Montana. I ask that my amendment may be stated.

The VICE PRESIDENT. The amendment will be stated.

The READING CLERK. On page 5, line 1, after the words "Court of Claims," it is proposed to insert the words "to render judgment as herein provided," so that the additional proviso will read:

And provided further, That the jurisdiction of the Court of Claims to render judgment as herein provided shall not extend or include any claim which is now barred by the provisions of any law of the United States.

Mr. NELSON. I shall make no objection to the amendment in that form.

Mr. SHIELDS. I understood it would be out of order to present an amendment while another amendment is pending, but I will accept that as a substitute for the amendment which I offered to strike out the whole section.

Mr. WALSH of Montana. I understood that the Senator had moved to strike out the proviso, and I thought the proviso should be perfected before the motion should be put.

The VICE PRESIDENT. The Senator from Montana is correct.

Mr. SHIELDS. I was merely trying to straighten the matter out.

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Montana.

The amendment was agreed to.

Mr. SHIELDS. Mr. President, I offer another amendment.

The VICE PRESIDENT. Does the Senator from Tennessee withdraw his previous amendment?

Mr. SHIELDS. I do.

Mr. JONES of Washington. Mr. President, I should like to ask the Senator from Tennessee about how long he thinks it may take to dispose of the pending bill?

Mr. SHIELDS. I presume it will take half an hour. The main contention on which I shall insist is yet to come.

Mr. JONES of Washington. I wish to make an appeal to the Senator from Minnesota. The Senator from Tennessee states that the main point in which he is interested in regard to this bill is still to come. I wish to ask the Senator from Minnesota whether or not he would be willing to let the pending bill go over? As the Senator knows, we took up the calendar in the hope that we would dispose of bills to which there was no serious objection, but not with the idea of taking all the afternoon on any one particular bill. There are several Senators who are interested in bills on the calendar who think they will not take very much time, and I had hoped we might accommodate them.

Mr. NELSON. If the Senator from Tennessee has no objection I am willing to have the bill temporarily laid aside.

Mr. SHIELDS. I did not hear the statement of the Senator.

Mr. JONES of Washington. The Senator from Minnesota states that if the Senator from Tennessee has no objection he will allow the pending bill to be passed over. Of course, I could ask that the unfinished business be laid before the Senate at any time and thus shut off every other measure, but I do not desire to do that.

Mr. SHIELDS. I will offer no objection to any disposition of the measure that the Senator from Minnesota desires to make.

Mr. NELSON. Very well.

The VICE PRESIDENT. The bill will be passed over.

Mr. JONES of Washington. Now, I ask that we may proceed with the calendar where we left off awhile ago.

INTERIOR DEPARTMENT APPROPRIATIONS.

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 13559) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1924, and for other purposes, and requesting

a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. SMOOT. I move that the Senate insist upon its amendments, accede to the request of the House for a conference, and that the conferees on the part of the Senate be appointed by the Chair.

The motion was agreed to, and the Vice President appointed Mr. SMOOT, Mr. CURTIS, and Mr. HARRIS conferees on the part of the Senate.

RECONSIDERATION OF BILLS.

Mr. SMOOT. Mr. President, I have been attending a meeting of the Foreign Debt Commission and for that reason was absent from the Chamber this afternoon. I understand that during my absence the Senate passed the joint resolution (S. J. Res. 41) authorizing transportation for dependents of Army field clerks and field clerks, Quartermaster Corps; the bill (S. 2589) to amend section 11 of the act entitled "An act for the retirement of public-school teachers in the District of Columbia," approved January 15, 1920, was passed; and the bill (S. 1861) authorizing the Court of Claims to adjudicate the claim of Capt. David McD. Shearer for compensation for the adoption and use and acquisition by the United States Government of his patented inventions.

I ask that the vote by which those measures were passed may be reconsidered, for I think that when they are fully explained on the floor of the Senate, Senators would not be in favor of their passage.

The VICE PRESIDENT. Is there objection to the request of the Senator from Utah?

Mr. NEW. I dislike to object to the request, but I wish the Senator from New York [Mr. WADSWORTH] might be present.

Mr. SMOOT. I am willing to let the one in which the Senator from New York is interested go over until he is here, or until to-morrow, but I want to have my motion pending.

Mr. NEW. If the motion is pending, that is all right.

Mr. SMOOT. Yes; and the other two I want to have reconsidered or the motion pending as to all three.

Mr. NEW. I suggest to the Senator that he merely have his motion pending.

The VICE PRESIDENT. The Chair is not quite certain what the Senator from Utah is now requesting.

Mr. SMOOT. I do not know whether I have a right to submit one motion and have it pending or not. It would stop the bills going to the House if it were pending. I am perfectly willing that the motion shall be pending.

The VICE PRESIDENT. The Senator may make a motion to reconsider.

Mr. SMOOT. Then, Mr. President, I move that the votes whereby Senate Joint Resolution 41, Senate bill 2589, and Senate bill 1861 were passed may be reconsidered.

Mr. NEW. And the motion will be pending until to-morrow?

Mr. SMOOT. Yes.

The VICE PRESIDENT. The motion of the Senator from Utah will be entered.

RURAL-CREDIT FACILITIES.

Mr. McLEAN, from the Committee on Banking and Currency, to which was referred the bill (S. 4280) to provide credit facilities for the agricultural and live-stock industries of the United States; to amend the Federal reserve act; to amend the Federal farm loan act; to extend and stabilize the market for United States bonds and other securities; to provide fiscal agents for the United States; and for other purposes, reported it with amendments and submitted a report (No. 998) thereon.

JOINT RESOLUTION AND BILLS PASSED OVER.

The VICE PRESIDENT. The Secretary will state the next bill on the calendar.

The joint resolution (S. J. Res. 253) proposing an amendment to the Constitution of the United States fixing the commencement of the terms of the President and Vice President and Members of Congress and providing for the election of President and Vice President by direct vote was announced as next in order.

Mr. FLETCHER. I ask that the joint resolution be passed over.

The VICE PRESIDENT. The joint resolution will be passed over.

The bill (S. 2792) for the relief of John L. Livingston was announced as next in order.

Mr. DIAL. I ask that that bill go over.

The VICE PRESIDENT. The bill will be passed over.

RELIEF OF PUBLIC-BUILDING CONTRACTORS.

The bill (H. R. 7658) to amend the act approved August 25, 1919, entitled "An act for the relief of contractors and subcontractors for the post offices and other buildings and works under the supervision of the Treasury Department, and for other purposes," was announced as next in order.

Mr. DIAL. Mr. President, I ask that that bill go over.

Mr. FERNALD. Mr. President, if the Senator will permit me, I should like to make a very brief statement in regard to this bill. If its purpose is understood, I think there can be no objection to it, for certainly it is a very meritorious measure.

There was an act passed in 1919 permitting contractors who had taken contracts for the erection of public buildings prior to the outbreak of the war where they were interfered with in their work by the Government because of the activities of the Army and Navy to submit their claims to the Treasury Department for settlement. Hundreds of claims have been thus submitted, and I have never as yet heard the criticism regarding those claims that they are unjust. There was one claim, however, of a contractor—and it was a very small claim—that was not submitted sufficiently early to come within the time limit, which expired 60 days after the passage of the act to which I have referred. That contractor was mentally disabled and was taken to a sanitarium for treatment, remaining there for a year. Meanwhile his business was left unsettled, and nobody knew anything at all about any claim he might have had. This bill simply gives to that contractor, or any others, if there be any, permission to appear before the Treasury Department and submit their claims. I know of only the one contractor, but if there be others they certainly ought to come within the purview of the proposed legislation. I think with that explanation there can be no objection to the measure.

Mr. DIAL. Mr. President, I do not believe in opening the door in such cases. If the bill applied only to one man, I should not object, but I shall have to ask that the bill go over.

Mr. FERNALD. It would seem to me if there were other like cases where men were mentally disabled and were taken to sanitariums they certainly ought to have an opportunity to present their claims, as they would have in most of the States where the statute of limitations in such cases is waived. I trust there will be no objection to the consideration of the bill.

Mr. DIAL. I will have to ask that the bill go over, Mr. President.

The VICE PRESIDENT. The bill will be passed over.

Mr. POMERENE. Mr. President, I appeal to my friend from South Carolina to allow this bill to pass. I realize that this is giving a short time within which to permit this claimant to file his claim, but the record shows conclusively that this man was mentally incapacitated during the time within which the claim should have been presented. In many of the States where there are statutes of limitation limiting the time within which an action shall be brought there is also a provision that in case of mental disability or similar disability the statute shall be suspended, and that is practically what this is. It is simply suspending, for a short period, the limitation of the enabling act which was passed by the Congress, in order to enable this man to file his claim, and it is because of that disability.

Mr. DIAL. If it is limited to this one man I have no objection, but I do not want to open the door here to a flood of claims.

Mr. POMERENE. It is limited to this one claim, is it not?

Mr. FERNALD. It is not specifically limited to it, but I know of no other.

Mr. DIAL. I have no objection to this one claim, but I do not want to open the door so as to enable numerous other people to come in and file claims.

Mr. POMERENE. I have no objection to its being limited to this one claim. It is the only one I know about.

Mr. FERNALD. It is the only one that has been presented. I suggest limiting it to the claim of William Dall, of Cleveland, Ohio.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The VICE PRESIDENT. The amendments offered by the Senator from Maine will be stated.

The ASSISTANT SECRETARY. On page 1, line 8, after the word "upon," it is proposed to strike out "any" and insert "the."

The amendment was agreed to.

The ASSISTANT SECRETARY. In the same line, after the word "claim," it is proposed to insert the words "of William Dall, of Cleveland, Ohio."

The amendment was agreed to.

The ASSISTANT SECRETARY. On page 2, line 1, after the words "of the," it is proposed to strike out the word "person" and insert "said William Dall."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time, and passed.

DONATION OF CERTAIN WAR TROPHIES.

The joint resolution (S. J. Res. 250) to donate to the Veterans of Foreign Wars of the United States certain war trophies captured by or surrendered to the armed forces of the United States in the World War was considered as in Committee of the Whole and was read, as follows:

Resolved, etc., That the Secretary of War be, and is hereby, authorized to donate to the national museum of the Veterans of Foreign Wars of the United States at their national headquarters at New York, N. Y., such of the war devices and trophies captured or surrendered to the armed forces of the United States from the armed forces of Germany and allied nations as may be requested by the official in charge of that institution: *Provided*, That not to exceed one of each caliber of cannon and carriage or one each of the more general types of machine guns, minenwerfers, mortars, bomb throwers, flame throwers, and gas projectors may be included in this donation.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

BILL PASSED OVER.

The bill (S. 3247) to transfer to the classified service agents and inspectors in the field service, including general prohibition agents and field supervisors appointed and employed pursuant to the national prohibition act, and for other purposes, was announced as next in order.

Mr. CALDER. I ask that that go over.

The VICE PRESIDENT. The bill will be passed over.

PRACTICE OF OPTOMETRY IN THE DISTRICT OF COLUMBIA.

The bill (S. 2822) to regulate the practice of optometry in the District of Columbia was considered as in Committee of the Whole.

The bill had been reported from the Committee on the District of Columbia with amendments.

The amendments were, on page 1, line 6, after the word "of," to strike out "ascertaining departures from the normal, measuring their functional powers," and insert "determining visual defects"; on page 2, line 18, after "\$500," to strike out "at the discretion of the court"; on the same page, line 21, after the word "imprisoned," to insert "in the District jail"; on line 22, after the word "both," to strike out "at" and insert "in"; on page 3, line 2, after the word "ten," to insert "optometrists"; on line 3, after the words "submitted by," to insert "a majority vote at some regular meeting of"; on line 6, after the words "age of," to strike out "25" and insert "21"; on line 11, after the word "board," to insert "of optometry"; on line 18, after the word "years," to strike out "vacancies on the said board shall be filled by the said commissioners for the unexpired term only," and insert "and in case of death, resignation, or removal of any member the vacancy for the unexpired term shall be filled by the said commissioners in the same manner as other appointments"; on page 4, line 13, after the word "improper," to strike out "or unprofessional"; on page 5, line 22, after the word "give," to insert "such"; on the same line, after the word "bond," to strike out "to the Board of Optometry" and insert "for the performance of his duties as the commissioners"; on line 24, after the word "Columbia," to strike out "with surety to be approved by the board in the sum of \$2,000, conditioned for the faithful discharge of the duties of his office" and insert "shall require"; on page 6, after line 2, to strike out "Such bond with the approval of the board shall be placed in the custody of the president of the board"; on line 7, after the word "board," to strike out "and the" and insert "which salary and all"; on line 12, after the word "board," to insert "and"; on line 13, after the word "year," to insert "if any surplus remains"; on line 16, after the word "determine," to strike out the comma and the words "and the balance then remaining, if any, shall be retained by the board as a fund in the custody of the secretary-treasurer to meet additional needful and necessary expenses for conducting the affairs of the board"; on page 7, line 4, after the word "of," to strike out "90 days" and insert "one year"; on line 25, after the word "good," to insert "moral"; on page 8, line 23, after the word "by," to strike out "acceptable certificate" and insert "certificate acceptable to the board"; on page 9, after line 10, to strike out "Any student entering upon the study of optometry

in a registered optometrist's office may file with the Board of Optometry an application for, and upon payment of a fee of \$5 for the same shall receive a certificate of fact; only candidates so registering and having served as such not less than three years, and shall have the preliminary educational qualifications as required by the board and be more than 21 years of age, shall thereupon be entitled to take the standard examination, without the previous attendance at a school of optometry as in this paragraph hereinbefore set forth"; on page 9, line 22, after the word "board," to insert "with the approval of the Commissioners of the District of Columbia"; on line 23, after the word "is," to strike out "vested with authority on its part" and insert "authorized and empowered"; on page 10, line 17, after the word "shall," to strike out "have the privilege of continuing the practice of optometry for a period of six months and of," and insert "after the expiration of six months and within two years, have the privilege of"; on line 21, after the word "fee," to strike out "But in the event of his failure to pass a second examination he shall thereafter, at the discretion of the board, cease to practice optometry in the District of Columbia"; on page 12, line 6, after the word "exceed," to strike out "\$15" and insert "\$10"; on line 18, after the word "required," to strike out "After five years' retirement the privilege of renewal shall be discretionary with the board"; and on page 13, line 3, after the word "habitual," to strike out "intemperance, the use of spirits, stimulants" and insert "use of," so as to make the bill read:

Be it enacted, etc., That the practice of optometry is defined to be the application of optical principles through technical methods and devices in the examination of the human eye for the purposes of ascertaining departures from the normal, measuring their functional powers, and the adaptation of lenses for the aid and relief thereof.

SEC. 2. That on and after six months from the passage of this act it shall be unlawful for any person in the District of Columbia to engage in the practice of optometry or to hold himself out as a practitioner of optometry, or attempt to determine by an examination of the eyes the kind of eyeglasses required by any person, or hold himself out as a licensed optometrist when not so licensed, or to represent himself as capable of examining the eyes of any person for the purpose of fitting glasses, excepting those hereinafter exempted, unless he shall have fulfilled the requirements and complied with the conditions of this act and shall have obtained a license from the District of Columbia Board of Optometry, created by this act; nor shall it be lawful for any person in the District of Columbia to represent that he is a lawful holder of a license as provided by this act when in fact he is not such lawful holder, or to impersonate any licensed practitioner of optometry, or shall fail to register the certificate as provided in section 13 of this act.

Any person violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction for the first offense shall be fined not more than \$500, at the discretion of the court, and upon conviction for any subsequent offense shall be fined not less than \$500 nor more than \$1,000, or be imprisoned not less than three months nor more than one year, or both, at the discretion of the court.

SEC. 3. That the Commissioners of the District of Columbia shall appoint a board of optometry consisting of five persons, such persons and those thereafter appointed as hereinafter provided for to be selected from a list of 10 submitted by the District of Columbia Optometric Society, each of whom shall be a citizen of the United States, over the age of 25 years, actually engaged in the practice of optometry as defined in section 1 of this act, and who shall have been engaged in the actual and continuous practice of the same in the District of Columbia for at least three years next preceding his appointment. The said board shall be so appointed within 30 days after the approval of this act, and of the first appointees the said commissioners shall designate two who shall serve for a term of one year, two for a term of two years, and one for a term of three years from the date of said appointment, and each year thereafter the commissioners shall appoint successors to those whose terms expire as members of said board to serve for a term of three years; vacancies on the said board shall be filled by the said commissioners for the unexpired term only.

Each appointee to the board of optometry as hereinbefore provided for shall, within 15 days from the date of his appointment, qualify by subscribing to the following oath of office before any officer authorized to administer oaths in the District of Columbia: "I do solemnly swear that I will faithfully, impartially, with fidelity and according to law, perform the duties of a member of the board of optometry of the District of Columbia, to the best of my ability, so help me God."

Upon such oath being filed with the commissioners, they shall issue to said member a certificate of his appointment.

The commissioners are herewith vested with authority to remove from office at any time any member of said board for neglect of duty, incompetency, improper or unprofessional conduct, or when the license to practice optometry of any member of said board shall have been suspended or revoked.

SEC. 4. That the first meeting of the board of optometry created under the provisions of this act shall be held within 30 days from the date of appointment, at which meeting and at each annual meeting thereafter the members shall organize by electing a president, vice president, and a secretary-treasurer, who shall hold office for one year or until their respective successors have been appointed and have qualified. Said board shall hold its meetings at the end of every six months thereafter at such hour and place as it may designate for the examination of applicants for license to practice optometry in the District of Columbia, and for the transaction of such other business as may legally come before it; and may hold such additional meetings upon the call of the president of the said board or upon a call of a majority of the members of the board as the same become necessary for the examination of applicants for licenses or for carrying into effect the provisions of this act. If the date of any of said meetings shall fall upon a Sunday or a legal holiday, said meeting shall be held on the first business day thereafter.

Three members of the board shall constitute a quorum for the transaction of business, and should a quorum not be present on the day appointed for any meeting those present may adjourn from day to day until a quorum be present.

SEC. 5. That the board shall have authority and it shall be its duty to make all by-laws and necessary regulations for the proper discharge of its duties, and submit same to the Commissioners of the District of Columbia for approval.

SEC. 6. That before entering upon the discharge of the duties of his office the secretary-treasurer of the board shall give bond to the Board of Optometry of the District of Columbia, with surety to be approved by the board, in the sum of \$2,000, conditioned for the faithful discharge of the duties of his office, the premium of such bond to be paid from the funds in the possession of the board. Such bond with the approval of the board shall be placed in the custody of the president of the board.

SEC. 7. That the secretary-treasurer shall receive as compensation for his services an annual salary to be determined by the board, and the other expenses of the board necessary in carrying out the provisions of this act shall be paid from the funds in the custody of the secretary-treasurer for the use of the board upon requisition signed by the secretary-treasurer and countersigned by the president of the board; on the 30th day of June of each year the members of the board shall be paid such reasonable compensation out of the funds in the custody of the board as the Commissioners of the District of Columbia may determine, and the balance then remaining, if any, shall be retained by the board as a fund in the custody of the secretary-treasurer to meet additional needful and necessary expenses for conducting the affairs of the board: *Provided, however,* That said compensation and expenses shall not exceed the amount received by the board under the provisions of this act.

SEC. 8. That the District Board of Optometry shall have an official seal and shall keep a record of its proceedings, a record of registered optometrists and of licenses by it revoked. Its records shall be open to public inspection between the hours of 9 and 3 o'clock of any business day, and it shall keep on file all examination papers for a period of 90 days after each examination. A transcript of an entry in such records, certified by the secretary-treasurer, under the seal of the board, shall be prima facie evidence of the facts therein stated. The board shall on or before the 10th day of July in each year make a report to the Commissioners of the District of Columbia of its official acts during the preceding 12 months ending June 30, and of its receipts and disbursements, and a full and complete report of the conditions pertaining to optometry in the District of Columbia.

SEC. 9. That on and after six months from the passage of this act, as set forth in section 2 hereof, every person desiring to practice optometry, or, if now in practice, to continue the practice thereof, except as herein otherwise provided, shall take an examination as provided in this act and shall fulfill the other requirements as in this act provided.

SEC. 10. That any person who has been engaged in the practice of optometry for at least two full years (one of which must have been in the District of Columbia), immediately prior to the passage of this act, who is more than 21 years of age and of good character, shall be entitled to take the limited examination covering the following only:

- (a) The limitations of the sphere of optometry.
- (b) The essential scientific instruments used in optometry.
- (c) The form and power of lenses used in optometry.
- (d) A correct method of measuring hypermetropia, myopia, astigmatism, and presbyopia.
- (e) The writing of formulas or prescriptions for the adaptation of lenses in aid of vision.

Any person who has previously taken the limited examination and received certificate of the same as herein provided may also, if he so desires, take the standard examination at any time, any provisions in section 11 hereof to the contrary notwithstanding: *Provided, however,* That failure to pass the standard examination after having qualified under the limited examination as in this paragraph set forth shall not disqualify him as a lawful practitioner.

SEC. 11. That any person over the age of 21 years, of good moral character, who has had a preliminary education equivalent to a two years' course in a first-grade high school (which shall be determined either by examination or by acceptable certificate as to work done in such approved institution), and who is a graduate of a school of optometry in good standing (as determined by the board and which maintains a course in optometry of not less than 1,000 hours), shall be entitled to take the standard examination. Such standard examination shall consist of tests in—

- (a) Practical optics.
- (b) Theoretic optometry.
- (c) Anatomy and physiology and such pathology as may be applied to optometry.
- (d) Practical optometry.
- (e) Theoretic and physiologic optics.

Any student entering upon the study of optometry in a registered optometrist's office may file with the board of optometry an application, and upon payment of a fee of \$5 for the same shall receive a certificate of fact; only candidates so registering and having served as such not less than three years, and shall have the preliminary educational qualifications as required by the board and be more than 21 years of age, shall thereupon be entitled to take the standard examination without the previous attendance at a school of optometry as in this paragraph hereinbefore set forth.

SEC. 12. That the board is vested with authority on its part to alter, amend, and otherwise change the educational standards at any time, but in altering, amending, or changing said standards the board shall not be permitted to lower the same below the standards herein set forth.

SEC. 13. That every person desiring to be licensed as in this act provided shall file with the secretary-treasurer of the board upon appropriate blank to be furnished by said secretary-treasurer an application accompanied by the recommendation of two reputable citizens, verified by oath, setting forth the facts which entitle the applicant to examination and license under the provisions of this act. The said board shall hold at least two examinations each year. In case of failure at any standard examination the applicant, after the expiration of six months and within two years, shall have the privilege of taking a second examination by the board without the payment of an additional fee. In case of failure at the limited examination hereinbefore provided for the applicant shall have the privilege of continuing the practice of optometry for a period of six months and of taking a second examination without the payment of an additional fee. But in the event of his failure to pass a second examination he shall thereafter, at the dis-

cretion of the board, cease to practice optometry in the District of Columbia.

Every applicant who shall pass the standard examination, or the limited examination, as the case may be, and who shall otherwise comply with the provisions of this act, shall receive from the said board under its seal a license entitling him to practice optometry in the District of Columbia, which license shall be duly registered in a record book to be properly kept by the secretary-treasurer of the board for that purpose which shall be open to public inspection; and a duly certified copy of said record shall be recorded in the clerk's office of the Supreme Court of the District of Columbia, and shall be admitted as prima facie evidence in all courts of the District of Columbia in the trial of any cause, and it shall be the duty of the clerk of the Supreme Court of the District of Columbia to keep a special book for the purpose of recording said license, and shall, upon application and by the payment of a fee of 50 cents, deliver to any person applying therefor a certificate that the license has been recorded in compliance with the provisions of this act. Each person to whom a certificate of license shall be issued by said board shall keep same displayed in a conspicuous place in his principal office or place of business wherein said person shall practice optometry, and shall, whenever required, exhibit the said certificate to any member or agent of the board.

SEC. 14. That the said board shall charge the following fees for examination, registrations, and renewals of certificates: The sum of \$25 for a standard or a limited examination. Every registered optometrist who desires to continue the practice of optometry shall annually, on or before the 10th day of January of each year, pay to the secretary-treasurer of the board a renewal registration fee to be fixed annually by the board, not to exceed \$15, for which he shall receive a renewal of his certificate. In case of neglect to pay the renewal registration fee as herein provided the board shall have authority to revoke such license and the holder thereof may be reinstated by complying with the conditions specified in this section, but no license or permit may be revoked without giving 60 days' notice to the delinquent, but the board shall only have the right to renew such license on the payment of the renewal fee with penalty of \$5: *Provided,* That retirement from practice for a period of not exceeding five years shall not deprive the holder of said license the right to renew the same upon the payment of the fee herein required. After five years' retirement the privilege of renewal shall be discretionary with the board.

SEC. 15. That the board shall adopt a seal and license of suitable design and shall have an office in the District of Columbia where examinations shall be held and where all of the permanent records shall be kept.

SEC. 16. That the board may in its discretion refuse to grant a license to any applicant and may cancel, revoke, or suspend the operation of any license by it granted for any of the following reasons: The conviction of crime involving moral turpitude, habitual intemperance, the use of spirits, stimulants, narcotics, or any other substance which impairs the intellect and judgment to such an extent as to incapacitate anyone for the duties of optometry, or for a conviction as provided in section 2 of this act.

SEC. 17. That any person who is the holder of a license or who is an applicant for a license against whom any charges are preferred shall be furnished by the board with a copy of the complaint and shall have a hearing before the board, at which hearing he may be represented by counsel. At such hearing witnesses may be examined for and against the accused respecting such charges; the board shall thereupon pass upon said charges.

SEC. 18. That any applicant for a license who has been examined by the board of optometry in any of the States of the United States which through reciprocity similarly accredits the holder of a license issued by the board of optometry of the District of Columbia to the full privileges of practice within such State may on the payment of a fee of \$25 to the said board and on filing in the office of the board a true and attested copy of said license, certified by the president and secretary-treasurer of the said board, showing the same and also showing that the standard of requirements adopted and enforced by said board is equal to that provided by this act, shall without further examination receive the license: *Provided,* That such applicant has not previously failed at any examination held by the board of optometry of the District of Columbia.

SEC. 19. That nothing in this act shall be construed as conferring on the holder of any license issued by said board the right to use any title or any word or abbreviation indicating that he is engaged in the practice of medicine, surgery, or the treatment of the eye, or the diagnosis of diseases of or injuries to the human eye, or the writing or issuing of prescriptions for the obtaining of drugs or medicine in any form for the treatment or examination of the human eye.

SEC. 20. That the provisions of this act shall not apply—

(a) To physicians and surgeons practicing under authority or license issued under the laws of the District of Columbia for the practice of medicine and surgery.

(b) To persons selling spectacles and (or) eyeglasses and who do not attempt either directly or indirectly to adapt them to the eye, and who do not practice or profess the practice of optometry.

SEC. 21. That wherever in this act the singular number is used it shall be interpreted as meaning either singular or plural if compatible with the sense of the language used, and when in this act the masculine gender is used it shall be construed as meaning also the feminine gender if not inconsistent with such use.

The amendments were agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

W. O. WHIPPS.

The bill (S. 3364) for the relief of W. O. Whipp was considered as in Committee of the Whole and was read, as follows:

Be it enacted, etc., That the President be, and he hereby is, authorized to appoint W. O. Whipp, formerly a major in the Quartermaster Corps, United States Army, a captain in the Quartermaster Corps, United States Army, to date from July 1, 1920, and to be placed upon the promotion list in such place as is provided by section 24a of the act of June 4, 1920, for persons appointed officers under the provisions of section 24 of said act.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

BILLS PASSED OVER.

The bill (S. 4050) to provide for the purchase and sale of farm products was announced as next in order.

Mr. WADSWORTH and Mr. JONES of Washington. Let that go over.

The VICE PRESIDENT. The bill will be passed over.

The bill (S. 4012) to control the possession, sale, and use of pistols and revolvers in the District of Columbia, to provide penalties, and for other purposes, was announced as next in order.

Mr. STANLEY. Let that go over.

The VICE PRESIDENT. The bill will be passed over.

The bill (S. 3252) to amend paragraph 8 of the act entitled "An act relating to the Metropolitan police of the District of Columbia," approved February 28, 1901, as amended, was announced as next in order.

Mr. McKELLAR. Let that go over.

Mr. JONES of Washington. Mr. President, I have not had time to examine this bill, but I think it is the bill with reference to patrol drivers in the District of Columbia. It makes them regular policemen, which I think the Senator will agree should be done.

Mr. McKELLAR. The bill has some other things in it that I want to look into.

Mr. JONES of Washington. Very well, then.

Mr. McKELLAR. I notice the last proviso, and I call the attention of the Senator from Washington to it, where apparently a considerable sum of difference in salaries from August 1, 1919, to date is to be paid to every officer or member of the Metropolitan police force.

Mr. JONES of Washington. It is all right for it to go over, then. I did not know that there was anything else in it.

Mr. McKELLAR. I should like to look into it further.

Mr. JONES of Washington. I have not examined it.

The VICE PRESIDENT. The bill will be passed over.

TRANSFER OF SURPLUS BOOKS.

The bill (S. 3244) to authorize the transfer of surplus books from the Navy Department to the Interior Department was considered as in Committee of the Whole, and was read, as follows:

Be it enacted, etc., That the Secretary of the Navy is hereby authorized and directed to transfer such books as may not be required for the uses of the Navy Department to the Interior Department as the Secretary of the Interior may consider useful for educational purposes at the Indian school at Santa Fe, N. Mex., and other Indian schools throughout the United States.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

TRANSFER OF VESSELS FROM NAVY TO COAST GUARD.

The bill (S. 4137) to authorize the transfer of certain vessels from the Navy to the Coast Guard was considered as in Committee of the Whole and was read, as follows:

Be it enacted, etc., That the Secretary of the Navy is hereby authorized to transfer to the Treasury Department, for the use of the Coast Guard, such vessel or vessels of the Navy, with their outfits and armaments, as can be spared by the Navy and as are adapted to the use of the Coast Guard.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

TEXAS PACIFIC RAILROAD CO.

The bill (S. 4029) to amend an act entitled "An act to incorporate the Texas Pacific Railroad Co., and to aid in the construction of its road, and for other purposes," approved March 3, 1871, and acts supplemental thereto, was considered as in Committee of the Whole.

The bill had been reported from the Committee on the Judiciary with an amendment, to strike out all after the enacting clause and to insert:

That in addition to the powers conferred by the act entitled "An act supplementary to an act entitled 'An act to incorporate the Texas Pacific Railroad Co. and to aid in the construction of its road, and for other purposes,' approved March 3, 1871," approved May 2, 1872, the Texas & Pacific Railway Co. shall have power and authority at any time, or from time to time, by resolution of its board of directors, duly adopted at a meeting thereof held in accordance with its by-laws, and with the consent of the holders of a majority in amount of its then outstanding capital stock, expressed by vote in person or by proxy at a special meeting of said stockholders called for the purpose upon such notice as its by-laws require for the calling of such special meeting, to authorize an issue or issues of its bonds for the completion, equipment, maintenance, or repair of its lines of railroads, the funding of any debt, the making of any additions, extensions, or betterments to its property, or for any other lawful corporate purpose, without limitation in amount to \$40,000 per mile of its lines of railroad as prescribed by said act of Congress approved May 2, 1872, and to secure said bonds, or any of them, by mortgage or other lien upon all or any portion of its franchises and property.

SEC. 2. That the capital stock of the Texas & Pacific Railway Co., heretofore fixed by its board of directors pursuant to the provisions of said act of Congress approved March 3, 1871, at \$50,000,000, may be increased at any time, or from time to time, by resolution of its board of directors duly adopted at a meeting thereof held in accordance with its by-laws and with the consent of the holders of a majority in amount of its then outstanding capital stock, expressed by vote in person or by proxy at a meeting of said stockholders called for the purpose upon such notice as its by-laws require for the calling of such special meeting.

Any additional share of capital stock so authorized shall be entitled to such rights, privileges, and priorities and preferences and be subject to such limitations and restrictions as may be determined by resolution of the board of directors with like consent of the holders of a majority in amount of the then outstanding capital stock of the Texas & Pacific Railway Co.: *Provided*, That each share of outstanding capital stock, preferred or common, shall be entitled to one vote at every stockholders' meeting, which may be voted in person or by written proxy.

SEC. 3. That all power and authority granted by this act, or by any of the aforesaid acts, shall be subject in its exercise to the provisions of the Interstate Commerce act, or any act amendatory thereof or supplemental thereto from time to time in force, as far as applicable.

SEC. 4. That a copy of the resolution of the board of directors and of the stockholders, or of the proceedings at a stockholders' meeting, authorizing any such increase in capital stock, or the issuance of any such bonds, and of the order of the Interstate Commerce Commission or other governmental agency authorizing the same, certified by the secretary of the Texas & Pacific Railway Co., shall be filed and recorded in the Department of the Interior, and when so filed shall be sufficient evidence of the power and authority of the Texas & Pacific Railway Co. to issue such additional stock or bonds.

SEC. 5. That the Texas & Pacific Railway Co., for the purposes of all actions at law by or against it, real, personal, or mixed, and all suits in equity, shall be deemed a citizen of the State of Texas and an inhabitant of the county of Dallas, in said State.

Mr. McKELLAR. Mr. President, this seems to be an important bill, and I should like to have an explanation of it from the Senator introducing it.

Mr. SHEPPARD. Mr. President, this bill gives the Texas Pacific Railroad Co. the same right that is now possessed by all other railroad companies of the United States not organized under Federal charter to go before the Interstate Commerce Commission and secure permission to increase its capital stock or issue certificates for improvement purposes; that is all.

Mr. McKELLAR. It does not have that power now?

Mr. SHEPPARD. It does not, because the road was organized under a Federal charter and the charter limited capital stock and security issues to certain figures. It can not at present issue additional improvement bonds, even with the approval of the Interstate Commerce Commission.

Mr. McKELLAR. Does it put all other railroads on the same basis?

Mr. SHEPPARD. It puts this railroad on the same basis that the other railroads are on now. Under the present transportation act all other railroads may increase their capital stock or secure the right to issue bonds for needed improvements if the Interstate Commerce Commission approves. This bill gives the Texas Pacific Railroad Co. the same status.

Mr. McKELLAR. I notice that the House passed one bill and the Senate committee has recommended the passage of another. What are the differences between the two bills?

Mr. SHEPPARD. The House committee has voted to report the bill as originally introduced, giving the road power to build or acquire extensions. The Senate committee has not gone that far. The Senate committee struck out the first two sections of the bill, which authorized the road to build extensions, and confined the added authority to the issuance of additional capital stock and additional improvement bonds.

Mr. McKELLAR. Is it unanimously reported by the committee?

Mr. SHEPPARD. It has been unanimously reported by the Senate Judiciary Committee, and the Interstate Commerce Commission has approved it.

Mr. McKELLAR. Hastily glancing over it, not having had time to read it, it seems to be a bill of a good deal of importance, giving considerable additional power.

Mr. SHEPPARD. It gives them the same power other roads have.

Mr. WALSH of Montana. I recall that the Judiciary Committee directed that a report be made favoring the enactment of the bill with the first two sections stricken out.

Mr. SHEPPARD. So it did; and that has been done.

Mr. WALSH of Montana. Why was it entirely reprinted?

Mr. OVERMAN. Let the bill be read, and let us see whether it struck them out or not.

Mr. McKELLAR. Mr. President, I ask unanimous consent that the Secretary read the bill. We can follow the reading and see what the bill provides. I have no doubt the Senator from Texas is accurate about it, but it seems such an important matter that we all had better look over it.

Mr. WALSH of Montana. Perhaps I might say something in advance that would be enlightening.

The Texas Pacific Railroad Co. was incorporated by act of Congress in 1871, authorized to construct a road from Marshall, Tex., to the Pacific coast. It never did construct a line outside of the State of Texas to the west, its western terminus being at the Rio Grande River, some distance east of El Paso. It runs into El Paso over the tracks of the Southern Pacific Railroad.

Afterwards, however, it was authorized to construct a line eastward to Shreveport, and that is all it has ever constructed—a road from the Rio Grande across the State of Texas to Shreveport, in the State of Louisiana. However, it acquired various lines in the State of Louisiana, giving it connection with New Orleans.

Sections 1 and 2 of the bill as reported to the House extended the Federal incorporation act and the charter of the Texas Pacific Railroad over these lines acquired by it, running from Shreveport, La., to New Orleans, La. The Judiciary Committee concluded that they would not extend the charter of the Texas Pacific Railroad Co. It was incorporated only with the idea that it would construct a transcontinental line of railroad, and it never did. Even the reason why it ever got a Federal charter has failed, and the committee believed it ought not extend Federal authority over any roads it has since acquired, the existence of which depend upon State laws.

It is limited to the act of its incorporation, the act of Congress, both in the amount of stock it may issue and in the amount of bonds it may issue. If it had been incorporated under a State charter, it would go to the State of its creation to get power to issue a greater amount of stock and a greater amount of bonds, but it could not issue those stocks and bonds without the approval of the Interstate Commerce Commission. It is obliged, accordingly, to come to the Congress of the United States, which created it, in order to get authority to make further issuance of stock and bonds. But the bill provides that it can issue such additional stock and bonds only upon the approval of the Interstate Commerce Commission, which puts it upon the same footing with railroads incorporated under State acts, as the Senator from Texas has said.

Mr. McKELLAR. Have all other railroads the right to issue unlimited amounts of stock and bonds?

Mr. WALSH of Montana. No; they have the right to issue stock and bonds to such an extent as the State from which they derive their charter permits. None of them, I apprehend, have unlimited power; but whatever right is given to them by the charters of the States incorporating them, they can not issue, even though the State authorizes them to issue, without the approval of the Interstate Commerce Commission.

Mr. McKELLAR. Then, as I understand, this is a Federal corporation, and under this bill it would have the right to issue stock and bonds in an unlimited manner, except so far as it is prevented by the Interstate Commerce Commission?

Mr. WALSH of Montana. Exactly.

Mr. SHEPPARD. I think the Senator states that erroneously.

Mr. McKELLAR. Let me see what it says here.

Mr. SHEPPARD. It must make application first. The proper statement is that it may create additional issues, provided the commission permits.

Mr. McKELLAR. The bill provides:

That the capital stock of the Texas & Pacific Railway Co., heretofore fixed by its board of directors pursuant to the provisions of said act of Congress approved March 3, 1871, at \$50,000,000, may be increased at any time, or from time to time, by resolution of its board of directors duly adopted at a meeting thereof held in accordance with its by-laws and with the consent of the holders of a majority in amount of its then outstanding capital stock, expressed by vote in person or by proxy at a meeting of said stockholders called for the purpose upon such notice as its by-laws require for the calling of such special meeting.

Apparently that gives them an unlimited right.

Mr. SHEPPARD. I call the Senator's attention to section 3 and ask him to read it.

Mr. McKELLAR. Apparently that merely limits it to the discretion of the Interstate Commerce Commission, and, as I understand it, it will then have an advantage over other railroads. If this bill passes, that railroad company will have the right to issue unlimited stock and bonds, if it can get the approval of the Interstate Commerce Commission to do it, while other railroads, organized in various States, are limited by the provisions of the State laws. I see in section 5 that it is to all intents and purposes to be made a citizen of the State of Texas. Why should it not be limited in its issuance of stock by the laws of the State of Texas? It will not be under this bill. I just call the Senator's attention to it. It seems to me under this bill the railroad would be given very broad powers.

Mr. SMITH. I would like to state to the Senator from Tennessee that the comparatively new limitation, or new statute, requiring every railroad, before it issues any additional stock

or enters into any additional bond issue, to carry its case before the Interstate Commerce Commission was passed in order to avoid any excessive issue of stock over and above the real investment for public use. There has been such a cry over the country of watered stock and inflated values that we passed an act some time ago requiring all railroads, before any future issue of stock or bonds, to apply to the Interstate Commerce Commission, and under the terms of that law, in their permission to these railroads they can not authorize the issuance of bonds and stock in excess of the amount actually invested for public use.

Mr. McKELLAR. Can the Senator say whether there are any limitations or restrictions upon the Interstate Commerce Commission, other than the exercise of their good judgment in the matter?

Mr. SMITH. I do not recall just the verbiage of the law, but the law clearly sets forth that the issue of stocks and bonds shall not exceed the actual investment for public service.

Mr. McKELLAR. The Senator recalls that the Esch-Cummins law made a good deal of watered stock good.

Mr. SMITH. That is different.

Mr. McKELLAR. It seems to me we ought to be very careful about the issuance of stocks and bonds in the future.

Mr. SMITH. That was the reason we passed the act to which I referred, in order that public carriers shall hereafter go to the Interstate Commerce Commission for permission to issue certain debentures against their property, and that they shall not exceed the amount actually invested.

Mr. McKELLAR. Can the Senator tell us whether or not that is largely a formality; or does the Interstate Commerce Commission make a real examination?

Mr. WALSH of Montana. The Senator will understand, of course, that that would not authorize the issuance of stocks and bonds greater than the value of the property. That is not to be imagined.

Mr. McKELLAR. We have been trying to get a valuation of the railroads for a long time, and that has not been accomplished yet, as I am informed. I am not going to object to the passage of this bill, but I have very grave doubts about whether we ought to give this unlimited right to any railroad to issue stock, and I doubt if we ought to give it the right to issue bonds.

Mr. SMITH. If the Senator from Tennessee will allow me, the Senator from Montana was exactly right in stating that it makes practically no difference what the source of the charter is, whether it is the Federal Government or a State, when it comes to the limitations on stock and bond issues; and I do not know whether the language of that statute would effect it. They say you might have carte blanche, but under the statute, whether it was a Federal charter or a State charter, the Interstate Commerce Commission would have to limit the issue to the valuation of the property.

Mr. McKELLAR. I can understand that. I have no knowledge about this except from a hasty reading of the bill. I hope it has been hedged around so that there can be no doubt about it, and I am glad to hear what the Senator from Montana and the Senator from South Carolina and the Senator from Texas have said about it.

Mr. WALSH of Montana. If it were not for the provisions of the existing law no one could controvert the Senator's argument that there should be a limitation, but in the estimation of the commission there is now a limitation; that is to say, the limitation is in the discretion of the Interstate Commerce Commission, which, as the committee thought, was very much better equipped to say what the limitation should be than we are in this hasty way and without the information. We thought very seriously about fixing a limit, and the chairman of the committee [Mr. NELSON] thought it would be wise to fix a limit upon the amount of stock and the amount of bonds; but it seemed reasonable to imagine that in 15 or 20 years from now they would have to come back to Congress to get an extension again, because, as the Senator knows, it is becoming more and more expensive; the equipment is of a higher class, the roadbed is better, and all that kind of thing. They would be obliged to double-track the road, and all that sort of thing.

Mr. McKELLAR. Mr. President, I would be very much better pleased to have them come back to get an extension of the limitation as to the amount of stock they could issue in the future than for them to improvidently issue stocks and bonds now and then come back some years afterwards and ask us to pass another bill like the Esch-Cummins bill to make the improvident stock and partially valueless stocks and bonds good. That is my opinion about it.

Mr. ROBINSON. I think it fair to state that there is no such provision in the Esch-Cummins law.

Mr. McKELLAR. We have a difference of opinion about that. I think there is.

Mr. ROBINSON. The Esch-Cummins law does not deal with the stocks and bonds of railroad companies in that connection. There is no provision in the Esch-Cummins Act that validates stocks and bonds.

Mr. McKELLAR. While there is no express provision, there is a provision in the Esch-Cummins law that requires the rates to be made so as to bring 6 per cent to the railroad companies.

Mr. ROBINSON. No; that is not correct either.

Mr. McKELLAR. Substantially so. It requires rates to be raised so as to produce a reasonable return on the capital, and that reasonable return has added very much to the value of the stocks and bonds of the railroads.

Mr. ROBINSON. That statement is totally inaccurate. There is not a word in the Esch-Cummins law that provides for a return on the capital of the railroads. In the provision of the Esch-Cummins law to which the Senator refers, the provision which I think he must have in mind, is that for a period of two years after the passage of the Esch-Cummins Act, a period expiring, as I remember, about March 1, 1922, thus having already expired, it was provided that as a rule of rate making, considering the roads as a whole or in groups, the rate of 5½ per cent on the actual aggregate value of the railroad property held and used for transportation should be considered a fair return. After that time the Interstate Commerce Commission was authorized to fix what should constitute a fair return but it has no relation whatever to stocks and bonds, it does not deal with the stocks and bonds, and does not take them into consideration. It takes into consideration the value of the property held and used for transportation.

Mr. McKELLAR. The valuation fixed under the terms of the Esch-Cummins law by the Interstate Commerce Commission is considerably more, perhaps several billion dollars more, than all the stock and all the bonds of the railroads, and therefore a provision requiring 6 per cent or providing for a 6 per cent return on the valuation fixed by the Interstate Commerce Commission would undoubtedly be very much better for the railroads than if it were to require a similar return on all the stocks and bonds of the railroads because the valuation is greater than the amount of the stocks and bonds.

Mr. ROBINSON. With the further indulgence of the Senator from South Carolina [Mr. DIAL], of course, under the Constitution of the United States a railroad engaged in interstate commerce is entitled to a fair return on the value of its property held in use for transportation. The effect of the provision of the Esch-Cummins Act to which the Senator has referred was to define what constituted a fair return. For a period which has already expired, it was defined at 5½ per cent, and, under some conditions, one-half of 1 per cent additional, making a total of 6 per cent that might be allowed. But in no case is the commission authorized, in determining the question of rates or in determining the amount of securities that may hereafter be issued, to take into consideration anything else than the value of the investment itself, the value of the property held and used for transportation, and the public interest as well as the needs of the roads. That is as stated by the Senator from South Carolina.

Mr. DIAL. Mr. President, I merely desire to add that I have every reason to believe the Interstate Commerce Commission thoroughly scrutinizes the amounts of the stocks and bonds which the railroads are authorized to issue, and furthermore they even look into the application of the funds arising from those stocks and bonds or the purpose for which they are issued. They give it most careful attention, I am sure.

Mr. McKELLAR. I am delighted to hear that is correct. I hope the Interstate Commerce Commission will scrutinize all applications for an increased issue of stocks and bonds by any of the railroad companies. Railroad stocks and bonds have been imprudently issued in the past, as we all know, but I hope it will not be done in the future. I am not going to object to the Senator's bill.

Mr. SHEPPARD. I have listened with great interest to the suggestions of the Senator from Tennessee, and I am perfectly willing to place in the bill an absolute limitation on the maximum amount of the capital stock and the maximum amount of bonds, any increase in either, however, to be subject to the approval of the Interstate Commerce Commission.

Mr. McKELLAR. I would feel very much easier about it if the Senator would offer such an amendment.

Mr. SHEPPARD. I am willing to have a limitation both as to the capital and the bonds. I move, therefore, to insert in line 17, page 7, after the numerals "\$40,000" the words "but not in excess of \$65,000."

The PRESIDING OFFICER (Mr. REED of Pennsylvania in the chair). The amendment to the committee amendment will be stated.

The ASSISTANT SECRETARY. The amendment proposed to the amendment of the committee is on page 7, line 17, after the numerals "\$40,000," to insert "but not in excess of \$65,000."

Mr. McKELLAR. Is not the Senator putting a very liberal limitation on that? If it were thought worth while to limit it to \$40,000 a mile when the first law was enacted, is not the extension of it to \$65,000 a mile now a very large extension?

Mr. SHEPPARD. The \$40,000 limit was fixed more than a generation ago, and the Senator knows how costs have increased since then. At any rate, no increase whatever may be made without the approval of the Interstate Commerce Commission.

Mr. McKELLAR. But I doubt if they have increased to that extent. While it was perhaps temporarily so during the war, it is not so now. Would not the Senator be willing to accept a modification of his amendment fixing the amount at \$50,000 a mile?

Mr. WALSH of Montana. It is not only a question of costs having increased but equipment has vastly increased. We now have rails weighing 100 pounds to the yard, and at that time they weighed 30 or 40 pounds. At that time we used to lay the rails practically upon the open prairie. Now we have to have a ballasted roadbed. At that time trains consisted of perhaps 10 cars, while now we have trains consisting of 75 or 80 cars. The Senator will see that a limitation which was liberal in 1871 would not have any application now at all.

Mr. SMITH. May I also call the Senator's attention to the fact that the ties upon which the rails were laid were generally delivered at that time for 25 cents each, while now they bring \$1.25 to \$1.50 each?

Mr. McKELLAR. I am not a member of the Committee on Interstate Commerce, while the Senators are, and they have unquestionably looked into the matter very fully. I have great confidence in them. I say again I am not going to object to the passage of the bill.

Mr. SHEPPARD. I ask for a vote on the amendment which I have offered to the committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Texas to the amendment of the committee.

The amendment to the amendment was agreed to.

Mr. SHEPPARD. On page 8, in line 1, after the word "time" where it appears the third time, I move to amend the committee amendment by inserting the words "but not to exceed in the aggregate \$75,000,000."

The PRESIDING OFFICER. The amendment will be stated.

The ASSISTANT SECRETARY. On page 8, line 1, after the word "time" where it appears the third time, the Senator from Texas moves to amend by inserting the words "but not to exceed in the aggregate \$75,000,000," so as to read:

That the capital stock of the Texas & Pacific Railway Co., heretofore fixed by its board of directors pursuant to the provisions of said act of Congress approved March 3, 1871, at \$50,000,000, may be increased at any time, or from time to time, but not to exceed in the aggregate \$75,000,000.

And so forth.

Mr. McKELLAR. Mr. President, what is proposed to be done now? Here is a railroad running from El Paso to New Orleans, with many branch lines—

Mr. SHEPPARD. Oh, no; not at all.

Mr. McKELLAR. I thought it had bought many branch lines.

Mr. WALSH of Montana. Connecting lines.

Mr. McKELLAR. They do not belong to the same company? Mr. WALSH of Montana. Yes. They own the line from Shreveport to New Orleans.

Mr. McKELLAR. All under a capitalization of \$50,000,000?

Mr. SHEPPARD. Yes.

Mr. McKELLAR. What lines are they going to acquire or build that would justify such an enormous increase in the capital stock?

Mr. SHEPPARD. They have no power under the bill to acquire additional lines at all.

Mr. McKELLAR. I know, but they want to increase their capital stock. What is the necessity for it? Can the Senator enlighten me about it?

Mr. SHEPPARD. It is essential, as I understand it, to enable the company to issue preferred stock. Under the present charter it can issue only common stock. The road has arranged to exchange an outstanding issue of \$25,000,000 income bonds for preferred stock as a part of its plans to secure additional funds for development and improvement. This exchange, however, will be subject to the approval of the Interstate Commerce Commission. The commission examined the bill before it was introduced and expressed approval.

Mr. McKELLAR. I am glad to know it was submitted to the commission.

Mr. SHEPPARD. Not a dollar of securities or stock authorized in the bill can be issued without the approval of the Interstate Commerce Commission.

Mr. McKELLAR. As I said before, I am going to yield to the judgment of the Senators who are members of the Interstate Commerce Committee.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Texas to the amendment of the committee.

The amendment to the amendment was agreed to.

The amendment as amended was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill amendatory of and supplementary to an act entitled 'An act to incorporate the Texas Pacific Railroad Co. and to aid in the construction of its road, and for other purposes,' approved March 3, 1871, and acts supplemental thereto, approved, respectively, May 2, 1872, March 3, 1873, and June 22, 1874."

CALL OF THE ROLL

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Bayard	George	Lenroot	Robinson
Borah	Gerry	Lodge	Sheppard
Brandegee	Glass	McCormick	Smith
Calder	Hale	McKellar	Sterling
Cameron	Harris	McNary	Sutherland
Capper	Heflin	Nelson	Townsend
Colt	Johnson	New	Trammell
Couzens	Jones, N. Mex.	Nicholson	Underwood
Curtis	Jones, Wash.	Norbeck	Wadsworth
Dial	Kellogg	Oddie	Walsh, Mont.
Ernst	Kendrick	Overman	Warren
Fernald	Keyes	Pepper	
Fletcher	King	Phipps	
Frelinghuysen	Ladd	Reed, Pa.	

Mr. CURTIS. I was requested to announce the absence of the Senator from Wisconsin [Mr. LA FOLLETTE] on official business.

The PRESIDING OFFICER. Fifty-three Senators have answered to their names. There is a quorum present.

SALARIES UNDER DEPARTMENT OF AGRICULTURE.

Mr. McNARY. Mr. President, under the order of procedure as outlined for to-morrow, the annual agricultural appropriation bill is to be called at 12 o'clock. I desire at this time to give notice in writing of a motion to suspend the rule in order that I may propose an amendment to that bill. I ask that the notice may now be read.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the Secretary will read as requested.

The ASSISTANT SECRETARY. The Senator from Oregon gives notice that under Rule XL he will move to suspend paragraph 3 of Rule XVI, in order that he may propose the following amendment to the bill (H. R. 13481) making appropriations for the Department of Agriculture for the fiscal year ending June 30, 1924, and for other purposes, to wit:

On page 82, after line 14, to insert the following:
"That hereafter the maximum salary of any scientific investigator or other employee engaged in scientific work and paid from the general appropriations of the Department of Agriculture shall not exceed the rate of \$6,500 per annum: *Provided*, That for the fiscal year 1924 no salary shall be paid under this paragraph at a rate per annum in excess of \$5,000 except the following: Not more than 12 in excess of \$5,000 but not in excess of \$5,500 each, and not more than 5 in excess of \$5,500 each."

The PRESIDING OFFICER. The notice will lie on the table and be printed.

BILLS PASSED OVER.

The next bill on the calendar was the bill (S. 799) to prevent deceit and unfair prices that result from the unrevealed presence of substitutes for virgin wool in woven fabrics purporting to contain wool and in garments or articles of apparel made therefrom, manufactured in any Territory of the United States or the District of Columbia or transported or intended to be transported in interstate or foreign commerce, and providing penalties for the violation of the provisions of this act, and for other purposes.

Mr. DIAL. Let that bill go over.

Mr. WADSWORTH. I ask that the bill may go over.

The PRESIDING OFFICER. Being objected to, the bill will be passed over.

The bill (S. 425) fixing the salaries of certain United States attorneys and United States marshals was announced as next in order.

Mr. KING. Let that bill go over.

The PRESIDING OFFICER. Being objected to, the bill will go over.

OWNERS OF THE STEAMSHIP "ESPERANZA."

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 419) for the relief of the owners of the steamship *Esperanza*, which had been reported from the Committee on Claims with amendment to strike out all after the enacting clause and to insert:

That the claim of the New York & Cuba Mail Steamship Co., owner of the American steamship *Esperanza*, against the United States for damages alleged to have been caused by collision between said vessel and the United States destroyer *Connor* on the 15th day of February, 1918, off Barnegat Light, N. J., may be sued for by the owner of the said American steamship *Esperanza* in the United States District Court for the Southern District of New York, sitting as a court of admiralty, and acting under the rules governing such court, and said court shall have jurisdiction to hear and determine such suit and to enter a judgment or decree for the amount of such damages and costs, if any, as shall be found to be due against the United States in favor of the owner of the said American steamship *Esperanza*, or against the owner of the said American steamship *Esperanza* in favor of the United States, upon the same principles and measures of liability as in like cases in admiralty between private parties, and with the same rights of appeal: *Provided*, That such notice of the suit shall be given to the Attorney General of the United States as may be provided by order of the said court, and it shall be the duty of the Attorney General to cause the United States attorney in such district to appear and defend for the United States: *Provided further*, That said suit shall be brought and commenced within four months of the date of the passage of this act.

The PRESIDING OFFICER. The question is on the adoption of the committee amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

LONG ISLAND RAILROAD CO.

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 420) for the relief of the Long Island Railroad Co., which had been reported from the Committee on Claims with an amendment to strike out all after the enacting clause and to insert:

That the claim of the Long Island Railroad Co. against the United States for damages alleged to have been sustained by said railroad company's dock, vessels, and marine equipment at Whitestone Landing, N. Y., on the 11th day of December, 1919, as a result of swells caused by the negligent operation of the United States destroyer *Broome* at an excessive rate of speed, may be sued for by said company in the United States District Court for the Southern District of New York, sitting as a court of admiralty and acting under the rules governing such court, and said court shall have jurisdiction to hear and determine such suit and to enter judgment or decree for the amount of such damages and costs, if any, as shall be found to be due against the United States in favor of the Long Island Railroad Co., or against the Long Island Railroad Co. in favor of the United States, upon the same principles and measures of liability as in like cases in admiralty between private parties and with the same rights of appeal: *Provided*, That such notice of the suit shall be given to the Attorney General of the United States as may be provided by order of the said court, and it shall be the duty of the Attorney General to cause the United States attorney in such district to appear and defend for the United States: *Provided further*, That said suit shall be brought and commenced within four months of the date of the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

OWNERS OF THE STEAMSHIP "LEXINGTON."

The Senate, as in Committee of the Whole, proceeded to consider the bill (S. 421) for the relief of the owners of the steamship *Lexington*, which had been reported from the Committee on Claims with an amendment to strike out all after the enacting clause and to insert:

That the claim of Colonial Navigation Co., owner of the American steamship *Lexington*, against the United States for damages alleged to have been caused by collision between said vessel and the United States submarine O-7 on the 6th day of October, 1919, in the East River, N. Y., near Horns Hook, may be sued for by the owner of the said American steamship *Lexington* in the United States District Court for the Southern District of New York, sitting as a court of admiralty, and acting under the rules governing such court, and said court shall have jurisdiction to hear and determine such suit and to enter judgment or decree for the amount of such damages and costs, if any, as shall be found to be due against the United States in favor of the owner of the said American steamship *Lexington*, or against the owner of the said American steamship *Lexington* in favor of the United States, upon the same principles and measures of liability as in like cases in admiralty between private parties, and with the same rights of appeal: *Provided*, That such notice of the

suit shall be given to the Attorney General of the United States as may be provided by order of the said court, and it shall be the duty of the Attorney General to cause the United States attorney in such district to appear and defend for the United States: *Provided further*, That said suit shall be brought and commenced within four months from the passage of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

COMMERCIAL PACIFIC CABLE CO.

The Senate, as in committee of the Whole, proceeded to consider the bill (S. 3503) to carry out the findings of the Court of Claims in the case of the Commercial Pacific Cable Co., which had been reported from the Committee on Claims with an amendment on page 1, line 6, after the words "sum of," to strike out "\$35,838.22" and to insert in lieu thereof "\$30,490.38," so as to make the bill read:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the Commercial Pacific Cable Co., out of any money in the Treasury not otherwise appropriated, the sum of \$30,490.38, to reimburse said company for the cost of repairing certain damages done by the United States naval authorities to one of said company's cables in the harbor of San Luis d'Pra, Island of Guam, in September, 1907, as reported to Congress in Senate Document No. 88, Sixty-fourth Congress, first session.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

GERTRUDE LUSTIG.

The bill (S. 3668) for the relief of Gertrude Lustig was announced as next in order.

Mr. DIAL. Let the bill go over.

Mr. WADSWORTH. Mr. President, will the Senator from South Carolina withhold his objection for a moment and allow me to make a statement in connection with this bill?

Mr. DIAL. Certainly.

Mr. WADSWORTH. Mr. President, this bill for the relief of Gertrude Lustig passed the Senate on a former occasion. I will make just a brief statement of the matter. I shall not go into detail.

Gertrude Lustig for 20 years was a member of the Army Nurse Corps. Shortly after our entrance into the war she was found on duty at the base hospital at the great concentration camp built near Fort Worth, Tex., at which the Thirty-sixth Division was trained. Gertrude Lustig was born in Germany. She was brought to this country as a little baby, I think not more than 1 year old. Some people, for whose motives or judgment I have no admiration, began spreading the story that she was a German spy. She had been in our Nurse Corps for 20 years.

To make a long story short, she was arrested while on duty at the base hospital at Fort Worth, incarcerated in Fort Worth for a considerable period of time without ever being brought to trial, her case was paraded in the headlines of the Fort Worth newspapers, and her name was flashed all over the Southwest as being a traitor to the country which she had served so faithfully for 20 years. After being held in confinement for some time in Fort Worth with the whole community talking about her, and her name and reputation being well-nigh ruined, she was then sent to a detention camp for dangerous enemy aliens. She was kept there for several months, according to my recollection. In the meantime, of course, she was discharged from the Army Nurse Corps. Finally, when the Department of Justice got down to examining into her case, they found that there was no ground whatsoever for the charges against her, and, at the instance of the Attorney General of the United States, she was ordered released from the detention camp. Of course, at that time she found herself discharged, practically dishonorably, from the Army Nurse Corps. The War Department, with the entire approval of General Ireland, the Surgeon General of the Army, took her on again and reestablished her as an Army nurse. I think she is still an Army nurse. This bill is to pay to her the salary which she would have earned had she not been arrested and discharged and detained as a spy. It is a bill in the interest of common justice. The Senate has passed it upon a former occasion, and I hope the Senate will do it again.

Mr. ROBINSON. Mr. President, the bill was approved by the War Department; was it?

Mr. WADSWORTH. It was; yes. She is in the service now.

Mr. DIAL. Mr. President, all I know about this matter is what I have read in the report. It occurs to me that we are

setting a very dangerous precedent here. If we are going to undertake to pay people their salaries for the time they were out of employment during the war, there is no telling when we will ever get through with it. To try these cases *ex parte* seems to me to be a very loose practice, and if we enter upon it I do not see how we will ever get through trying claims in Congress.

Of course, if the lady was innocent, it is very unfortunate that she was arrested; but it seems to me that there should have been some way to get her released. To come here now and pass a bill to pay her salary to her for the time she was out of the service, which is a pretty long time, is contrary to my ideas.

If the Senate wants to vote on the bill, I shall not ask that it go over; I will leave it to the Senate to say what it shall do; but I imagine that if we pass the bill we will have a great many similar claims here. We will be sitting here the same as a trial court, hearing these matters, for a long time to come.

Mr. McKELLAR. Mr. President, can the Senator from New York tell us whether this lady has ever made any claim for false arrest against the Government, or has she just contented herself with making a claim for the salary? I want to say to the Senator that it seems to me the case is a most meritorious one, and the claim ought to be paid. I am glad to know that the Senator from South Carolina is going to permit a vote on it, because I expect to vote for it, unless the lady has made claim for damages for false arrest or any other claim against the Government.

Mr. WADSWORTH. No; the poor woman is quite helpless in the matter. She can not sue the Government of the United States for false arrest.

Mr. McKELLAR. I know; but she can make a claim for it, and I was wondering whether or not she had ever made any claim for that. I take it she has not, if she is in the service of the United States now.

Mr. WADSWORTH. She protested her innocence, and protested it again and again for months, and was finally released and taken back into the Army.

Mr. McKELLAR. I think the claim is a very meritorious one, and I expect to vote for it.

Mr. JONES of New Mexico. Mr. President, may I ask the Senator from New York in what respect the principle of this case differs from any other case where a person is wrongfully arrested? In the ordinary case where an individual is arrested unjustly he loses the compensation for whatever employment he may have been engaged in during that time, and, so far as I know, no attempt ever has been made to reimburse any other citizen of the United States for a wrongful arrest. The only difference between this case and the ordinary case is that the individual happens to lose the compensation which she would have received from the Government of the United States during the time of the arrest; that is all. There are, however, hundreds and thousands of people who are wrongfully arrested day after day. They doubtless lose salaries or other compensation for their services which they would have received had they not been arrested, and no attempt is made to reimburse or compensate them for the loss. I do not see how we can differentiate this claim from the claim of any other citizen of the country who was improperly arrested.

Mr. WADSWORTH. Mr. President, I do not intend to contradict the observations of the Senator from New Mexico in whole; I do in part. At least the average citizen, when arrested, has an opportunity to give bail and go back to his employment pending the trial of his case. This poor person had no chance whatsoever.

She was branded as a dangerous enemy alien engaged in spy work, and she was shut up in a detention camp as an enemy dangerous to this country.

Mr. JONES of New Mexico. May I ask the Senator from New York if there were not a number of people who were likewise treated during the war?

Mr. WADSWORTH. I do not know of anyone who was treated in exactly the way that this person was. It is true that there were a large number that were detained as dangerous enemy aliens. In each one of those cases, however, as I understand, the Department of Justice took final jurisdiction after a careful investigation and made up its mind that they were dangerous enemy aliens; and there were quite a number of them confined in the camp, I think, in the State of Georgia. This woman, however, it was found, was not a dangerous enemy alien. It was found that she was completely innocent, and her release was promptly ordered; and the War Department took her back into the service, where she has served ever since as a faithful nurse to wounded and injured soldiers.

It may be that other injustices have occurred; but I do not think the fact that other injustices have occurred is an argument to use against this bill, which attempts at least to do justice in this case.

Mr. FLETCHER. Mr. President, may I ask the Senator whether there was actually any evidence at all of this lady's disloyalty, either from expressions or conduct or anything of that sort? Is there any proof of it?

Mr. WADSWORTH. No, Mr. President; the evidence was a "frame up," and was finally so regarded. The people who presented the evidence have disappeared. The authorities have never been able to find them since.

Mr. DIAL. Mr. President, this claimant, according to the report, was out of employment from September 28, 1918, to May 22, 1919, so it seems to have taken her a good long while to prove her innocence.

Mr. FLETCHER. She seems to have been in prison most of the time, however.

The VICE PRESIDENT. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any money in the Treasury not otherwise appropriated, to Gertrude Lustig, the sum of \$1,286.53, being the amount she would have received as pay and allowances as chief nurse, Army Nurse Corps, from September 28, 1918, the date of her unjustifiable dismissal from that position, to May 22, 1919, the date of her restoration to the service.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

TACOMA TUG & BARGE CO.

The bill (H. R. 966) for the relief of the Tacoma Tug & Barge Co. was considered as in Committee of the Whole, and was read, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to the Tacoma Tug & Barge Co., of Tacoma, Wash., out of any money in the Treasury not otherwise appropriated, the sum of \$674.22, to reimburse said company as owners of scow No. 8 for damages suffered by their boat as a result of a collision with the U. S. S. *Goldsborough* at Tacoma, Wash., December 17, 1914.

Mr. KING. Mr. President, without some explanation, I shall object to the passage of that bill. It seems to me that the matter ought to be remitted to the courts for determination.

Mr. JONES of Washington. Mr. President, I have examined the reports hurriedly, and I find this state of facts: This scow was tied up. It was run into by the Government boat because a wrong signal was sent to the pilot on the *Goldsborough*. The damage was done, the actual repairs were made, and a very correct statement shown, and the report shows that this amount of money is the actual expense incurred in repairing the scow. Under those circumstances it seems to me that the Government ought to pay it.

Mr. KING. Let me ask the Senator whether he believes it wise for us to direct the payment of these claims that have not been passed upon by some judicial tribunal, some court or some agency that has been set up for the purpose of making inquiry into them?

Mr. JONES of Washington. Mr. President, it probably would be well for us to set up some such agency, but we have not done it; and if we do not see fit to set up any agency, it seems to me we ought not to delay the payment of just claims on that account. Furthermore, it seems to me that where claims are small, like this, it would be far better if we should authorize the department, for that matter, to adjust the claims and settle them. It would save money to the Government and it would save money to the individual. If he had to go to court, he would have to hire an attorney and we would have to employ attorneys for the Government, and the expenses would be more than the amount of the claim. It seems to me that in a case like this, where the actual damage has been ascertained and the actual cost of repairing that damage—and that is all, according to my understanding of the report, that they ask to be paid—we ought not to hesitate to make the payment. The House has passed upon it.

Mr. KING. I was just going to suggest to the Senator that the Court of Claims was created, in part, to take care of such matters as this. It seems to me that if the present law is not broad enough to refer this case to the Court of Claims, that ought to be done by this bill.

Mr. JONES of Washington. I do not know very much about the jurisdiction of the Court of Claims, but if we were to send

to that court all cases like this we would have the Court of Claims overwhelmed.

Mr. ROBINSON. Mr. President, the proposal of the Senator from Utah that claims of doubtful validity should be investigated by the Court of Claims, and a finding of fact made, is unquestionably correct; but an examination of the record as it is presented here discloses that no controversy exists either as to the moral liability of the Government or as to the amount of the liability. Since the amount is small, it probably would cost the Government half as much as the entire claim to make a defense; and, as a matter of fact, the Government has no defense. So I think in this case we are justified in passing this bill.

The bill was reported to the Senate without amendment.

Mr. FLETCHER. I understand the department recommends the passage of the bill, and admits negligence on the part of the officers of the Government?

Mr. JONES of Washington. It admits liability.

Mr. FLETCHER. That seems to be the substance of the report, and I think the bill ought to be passed.

The bill was ordered to a third reading, read the third time, and passed.

DELAWARE RIVER LIGHTERING CO.

The bill (H. R. 2049) for the relief of the Delaware River Lightering Co. was announced as next in order, and was read.

Mr. KING. Let the report be read.

Mr. ROBINSON. I notice that the bill contains a somewhat unusual provision, to the effect that the payment shall be made under such conditions as the Secretary of the Navy may direct. Some one who is familiar with the bill ought to explain why that provision is inserted.

Mr. OVERMAN. I object to the consideration of the bill.

The VICE PRESIDENT. The bill will be passed over.

BILLS PASSED OVER.

The bill (H. R. 3461) for the relief of Eugene Fazzi was announced as next in order.

Mr. DIAL. Let that go over.

The VICE PRESIDENT. The bill will be passed over.

The bill (H. R. 4619) for the relief of the Link-Belt Co., of Philadelphia, was announced as next in order.

Mr. DIAL. Let that go over.

The VICE PRESIDENT. The bill will be passed over.

The bill (H. R. 4620) for the relief of Th. Brovig was announced as next in order.

Mr. DIAL. Let that go over.

The VICE PRESIDENT. The bill will be passed over.

The bill (H. R. 4622) for the relief of the Lloyd Mediterraneo Societa Italiana di Navigazione, owners of the Italian steamer *Titania*, was announced as next in order.

Mr. DIAL. Let that go over.

The VICE PRESIDENT. The bill will be passed over.

The bill (H. R. 5249) for the relief of Ephraim Lederer, collector of internal revenue for the first district of Pennsylvania, was announced as next in order.

Mr. DIAL. Let that go over.

The VICE PRESIDENT. The bill will be passed over.

The bill (H. R. 5648) for the relief of Ike T. Boyles was announced as next in order.

Mr. DIAL. Let that go over.

The VICE PRESIDENT. The bill will be passed over.

The bill (H. R. 6177) for the relief of the fishing smack *Mary S. Dolbow* was announced as next in order.

Mr. DIAL. Let that go over.

The VICE PRESIDENT. The bill will be passed over.

Mr. CAPPER. I would like to state to the Senator from South Carolina that the bills now being passed over have all been carefully considered by the Committee on Claims, and I think all of them are meritorious measures, and ought to be passed. They are all bills which have passed the House, and have had the best consideration of the Committee on Claims. If there is some special reason why they should not be passed, I would like to have the Senator state it.

Mr. DIAL. It is getting late in the day, and there are some Senators who are interested in some of these bills who can not be here. So I am going to object to their consideration.

The bill (H. R. 8214) to compensate the owners of the American steamship *Vindal* for damages and expenses in repairing the said steamship, and to make an appropriation therefor, was announced as next in order.

Mr. DIAL. Let that go over.

The VICE PRESIDENT. The bill will be passed over.

The bill (H. R. 9887) for the relief of the Pennsylvania Railroad Co. was announced as next in order.

Mr. DIAL. Let that go over.

The VICE PRESIDENT. The bill will be passed over.
Mr. DIAL. I object to all the bills down to calendar No. 964.

Mr. KELLOGG. Does the Senator object to the consideration of calendar No. 961, House bill 11939? That is not a claims bill. It is a bill for the authorization of the taxation of national banks. It has been considered by the Banking and Currency Committee for about a year.

Mr. DIAL. I did not notice that number. I thought it was a claims bill. I object to all down to House bill 11939.

The VICE PRESIDENT. The bill (H. R. 10287) for the relief of John Calvin Starr is next on the calendar and will be passed over on objection by the Senator from South Carolina.

TAXATION OF NATIONAL BANKS.

The bill (H. R. 11939) to amend section 5219 of the Revised Statutes of the United States was announced as next in order.

Mr. McKELLAR. Let the bill be read.

Mr. KING. I would like to ask the Senator from Minnesota if he designs to have the bill taken up and passed this afternoon?

Mr. KELLOGG. Yes.

Mr. KING. I think we will have to have a quorum, because a good many Senators are very much interested in the bill.

Mr. KELLOGG. The Senator can call for a quorum if he desires.

Mr. KING. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

The Assistant Secretary called the roll, and the following Senators answered to their names:

Bayard	Fletcher	Lodge	Robinson
Brandegee	George	McCormick	Sheppard
Bursum	Gerry	McKellar	Smith
Calder	Harris	McNary	Sutherland
Cameron	Heffin	Nelson	Townsend
Capper	Johnson	New	Underwood
Colt	Jones, N. Mex.	Nicholson	Wadsworth
Couzens	Jones, Wash.	Oddie	Williams
Curtis	Kellogg	Overman	
Dial	King	Pepper	
Ernst	Ladd	Reed, Pa.	

Mr. JONES of Washington. I desire to announce that the senior Senator from Wisconsin [Mr. LA FOLLETTE] is absent on official business.

Mr. GERRY. I wish to announce that the Senator from Wyoming [Mr. KENDRICK], the Senator from New Hampshire [Mr. KEYES], and the Senator from North Dakota [Mr. NORBECK], are absent on official business.

The VICE PRESIDENT. Forty-one Senators have answered to their names. There is not a quorum present. The Secretary will call the names of the absentees.

The Assistant Secretary called the names of the absent Senators, and Mr. FERNALD, Mr. SIMMONS, Mr. TRAMMELL, and Mr. WARREN answered to their names when called.

The VICE PRESIDENT. Forty-five Senators have answered to their names. A quorum is not present.

Mr. JONES of Washington. As an executive session is desired, I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The motion was agreed to.

The VICE PRESIDENT. The Sergeant at Arms will execute the order of the Senate.

Mr. PHIPPS, Mr. SMOOT, Mr. LENROOT, Mr. BROUSSARD, and Mr. STERLING entered the Chamber and answered to their names.

The VICE PRESIDENT. Fifty Senators having answered to their names, a quorum is present.

THE MERCHANT MARINE.

Mr. JONES of Washington. I ask that the unfinished business may be laid before the Senate.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 12817) to amend and supplement the merchant marine act, 1920, and for other purposes.

EXECUTIVE SESSION.

Mr. JONES of Washington. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After five minutes spent in executive session the doors were reopened, and (at 5 o'clock and 7 minutes p. m.) the Senate adjourned until to-morrow, Tuesday, January 9, 1923, at 12 o'clock meridian.

CONFIRMATIONS.

Executive nominations confirmed by the Senate January 8, 1923.

POSTMASTERS.

GEORGIA.

Willie A. Sheats, Monroe.

MARYLAND.

George M. Evans, Elkton.

MONTANA.

Harly J. Stephenson, Belgrade.

Hermon Y. Gard, Brady.

Robert H. Michaels, Miles City.

NORTH DAKOTA.

J. Dexter Pierce, Larimore.

David L. Rourke, Osnabrock.

PENNSYLVANIA.

Ida M. Mingle, Birmingham.

Harvey A. McKillip, Bloomsburg.

William T. Cruse, Derry.

Charles O. Wescoe, Fullerton.

Samuel H. Bubbs, McClure.

George W. Correy, Milton.

John S. Steinmetz, Richland.

Frank H. Keth, Summerville.

Frederick M. Adam, Temple.

Horace W. Wickersham, Thompsontown.

VIRGINIA.

Haynie S. Robertson, Blackstone.

Edwin L. Toone, Boynton.

Charles R. Whitmore, Broadway.

HOUSE OF REPRESENTATIVES.

Monday, January 8, 1923.

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Eternal God, with whom there is neither morning nor evening, Thy face is upon us; in many ways we have heard Thy voice; we are Thine and we thank Thee for this relationship; we would be worthier of the Father's care and ask Thee to make us so. Keep alive the sacred flames of our breasts that generate the moral and spiritual powers of our natures. Encourage us in the realization that we are a little part in the great designs of an infinite God. With counsels of wisdom, prudence, and discretion, direct us all this day and unto Thee be the praise. Amen.

The Journal of the proceedings of Saturday, January 6, 1923, and of the proceedings of Sunday, January 7, 1923, was read and approved.

DISTRICT OF COLUMBIA APPROPRIATION BILL.

Mr. CRAMTON. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill (H. R. 13660) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1924, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union for the further consideration of the District of Columbia appropriation bill, with Mr. HICKS in the chair.

The Clerk reported the title of the bill.

The CHAIRMAN. When the committee rose on Saturday a point of order was pending against the paragraph in the bill beginning on line 124, page 70. The Chair will now hear further argument upon the point of order.

Mr. HILL. Mr. Chairman, that point of order that I made was against the proviso, not against the paragraph.

The CHAIRMAN. The gentleman made the point of order only against the proviso?

Mr. HILL. That is correct.

Mr. TILSON. Mr. Chairman, I profess to know nothing about the merits of this paragraph. I have purposely refrained from a consideration of the merits of the paragraph because I wish to discuss it entirely from the parliamentary standpoint,